



DIALOG

The Periodic Bulletin

from

The Arizona Department of Real Estate

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Commissioner

COMMISSIONER'S CORNER

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LOOKING BACK OVER THE PAST TWO YEARS....

The Arizona real estate landscape has experienced some change, however, the Arizona Real Estate Department (ADRE) has experienced “much change”. Realizing the Purpose of the ADRE is to “protect the public interest through licensure and regulation of the real estate industry in Arizona”, and realizing the Industry and ADRE are Partners in protecting the public, a strategic plan for “raising the bar” of the real estate licensee has been implemented.

Let's review some of the achievements thus far, keeping in mind that the ground floor is being prepared for “raising the bar”.

- **Licensing:**
 - Legislation changed the 4 year license term to a 2 year term, now ensuring that the Continuing Ed (CE) must be completed for license renewal, and that the Broker Audit Declaration is now done by a Designated Broker every 2 years.
 - Requirement of a DPS issued Fingerprint Clearance Card for all License applicants:
 - Canceling of a license is now accepted from an active licensee, with no ADRE pending disciplinary actions against them.
 - Surrendering a license is now accepted from a licensee, with an ADRE investigation pending, being understood that licensee may never hold an AZ real estate license in the future.
 - Licensing Staff now accepts and processes most documents by scanning.
- **Education:**
 - Pre License Education Developments: A more comprehensive curriculum, with Broker content that is very different from Salesperson; an increase in number of Pre License test questions; a new Testing Vendor, Pearson VUE selected; an entirely new test question bank.
 - Continuing Education (CE) – Changes to the approval applications for Real Estate Schools, Instructors, and Courses, w/Rule requirements enforced and Instructors required to qualify as subject matter experts, with continuing education requirement for Instructor license renewal; Distance Learning approval guidelines clarified, w/the enforcement of the “50 minute” rule; School Educator Audit Declaration requirement implemented.
 - Implementing Education on-line systems and continued streamlining of the approval processes has resulted in a dramatic decrease in the “Pending Approval” log from a high of 217 (8-09) to a current 36 (6-11), with much quicker approval time per application.
 - Investigation/Auditing:
 - Streamlining of complaint and investigation processes resulting in a decrease in Real Estate pending investigations from a high of 458 (7/09) to 157 (6/11), with the goal of less than 50 pending by Sept. 2011;
 - Subdivision Investigations realized a decrease from a high of 189 (6-09) to 32 (6-11); Auditing Investigations realized a decrease from a high of 398 (6-09) to 33 (6-11).

- Electronic Broker Audit Review was developed and implemented, resulting in “red flag” alerts in the Broker Trust Accounts, allowing for the identification of violations.
- Revision of all investigation/auditing processes to accommodate the 2012 goal of an increase in the number of in-field audits to be conducted, focus to include short sale/REO violations, property management violations, and licensees, and unlicensed individuals engaged in unlicensed activity.

• E&C:

- Even though there was the dramatic increase in CE Non-compliance cases, and the Investigations Division processing a greater number of violations, Enforcement has seen an increase in cases processed, as well as those assigned to the Attorney General (AG) for hearings. Even with this increase in cases, the pending log (excluding those at the AG) has been reduced from 117 (6-09) to 57 (6-11).
- The E&C Division has taken a much tougher position on proven violators, with increased penalties (including suspensions and revocations).

ADRE Operations:

- HUB – An actual person answers most calls to ADRE, making a strong effort to satisfy the needs of the caller.
- IT – www.azre.gov website received a new look, and the entire content is being redone to be more user friendly.
- IT- Focused on allowing ADRE external services to be accommodated on-line or electronically, and all internal processes to be facilitated through technology.

Is the ground floor evident here?? The TEAM of 29 staff at ADRE see this as the ground floor!!! We are so proud of what's been accomplished...with a decrease in staffing by 60% from 2009. Remember...this is just the beginning.

What's to come in FY2012 (beginning July 1, 2011)... We'll provide our extensive Strategic Plan soon.

Thanks to our real estate industry partners, who have participated in the successes thus far....the BEST is yet to come. Please, Join the Game!!



FAREWELL TO AN ARIZONA HERO

“Scrappy” **Joe Sotelo**, a fourth generation Arizonan passed away on May 20, 2011. He was born in Metcalf, Arizona on February 24, 1919 and raised in Miami, Arizona. Survivors include his wife Jim (Sawyer), son Joe Jr., daughters-in-law Karen and Diane, daughter Jeannine Wilder and step-children Laurie and John (wife Sherine),. Grandchildren are Marie, Nicole, Jonna (Jason), Joe(Jill), Michael, Steven and Natalie; and step-grandchildren Lindsay, Matthew, Bradley and Alexis; brother Leo Obezo and brother-in-law Jack Starr. He was preceded in death by his wife of 56 years, Frances and his son John.

Mr. Sotelo was a former Real Estate Commissioner for the State of Arizona where he served under three governors. He instituted several reforms including the law of agency requirements and was instrumental in enforcement. He also had a Presidential appointment for Program Director, Western Region, U.S. Department of Commerce. Earlier in his career he was Director of the Securities Division of the Arizona Corporation Commission. He served as President of the Midwest Association of Securities Administrators, and assisted congressional drafting of the 1962 U.S. Real Estate Investment Company Act. He was Chairman of the Arizona Development Board (predecessor of the Arizona Department of Commerce). He was often solicited for educational activities, including the University of California, Berkeley, the Princeton Testing Center of Princeton, New Jersey, and the Thunderbird Graduate School of International Business. An ardent golfer, he played almost 5,000 rounds on Arizona courses, mostly at the Phoenix Encanto Golf Course where he served as President of the Men's Club. During his time in Miami he was a delivery boy/station leader for the Arizona Republic and served as a scoutmaster of troop 105 and leader of the 3-G council. He is a former miner with Inspiration Copper Company and attended the University of Arizona. He was instrumental in consolidating four schools districts in Miami into one successor district. While in Miami, he was a vice-president of a local title company and savings institution.

Arizona has lost a very exemplary Public Servant!!

NEW LICENSEE EXAMS**FEBRUARY 2011 –****Average Passing Percentages for “First Time Takers”**

REAL ESTATE BROKER	=78%
REAL ESTATE SALESPERSON	=66%
CEMETERY BROKER	=100%
CEMETERY SALESPERSON	=75%
MEMBERSHIP CAMPING (BROKER)	=None Administered
MEMBERSHIP CAMPING (SALESPERSON)	= None Administered

MARCH 2011 –**Average Passing Percentages for “First Time Takers”**

REAL ESTATE BROKER	=68%
REAL ESTATE SALESPERSON	=72%
CEMETERY BROER	=0%
CEMETERY SALESPERSON	=100%
MEMBERSHIP CAMPING BROKER	= None administered

APRIL 2011 –**Average Passing Percentages for “First Time Takers”**

REAL ESTATE BROKER	= 73%
REAL ESTATE SALESPERSON	= 72%
CEMETERY BROKER	= None administered
CEMETERY SALESPERSON	= 83%
MEMBERSHIP CAMPING BROKER	= None administered
MEMBERSHIP CAMPING SALESPERSON	= None administered

3,548 Active Continuing Education Courses3,022 Live CE (Approximately **85%**)526 Distance Learning CE (Approximately **15%**)**ADRE Licensee Online Course Entries
(1/17/2011 through 4/15/2011)**

Total courses entered: 53951

Distance Learning: 23449

Percentage Distance Learning: 43

REMINDERS!

- **Prelicensure Schools**– remember it is required to retain the records for five (5) years for prelicensure students who are needing recertification proof. ADRE is referring prelicensure recertification inquiries that are less than 5 years old back to original school for recertification.

Recertification of Pre License Education is required when a licensee does not renew their license within one (1) year of expiration if education occurred over 10 years prior to new application.

- **Instructor Development Workshop (IDW)**- Attention course developers: start planning ahead as schools are needed to apply for their instructor and course approval for the newly required ADRE-approved Instructor Development Workshop course emphasizing instruction methods, techniques and skills that will be required effective January 1, 2012 (S.B. 1292). Look for the newly revised course application (ED-102) and instructor application (ED-101) publications by September 1, 2011..

- **Out of State Classes**– Remember A.R.S. 32-2135 (I) The Department may approve for continuing education credit any course of study proposed by a real estate school if the course satisfies the commissioner’s requirements and is held outside this state. The school shall either:

1. Provide the department with a videotape or videotapes of the course.

2. Make arrangements that are approved by the Department for monitoring the course.

- **Education Advisory Committee**-Appointments July 15, 2011

ATTENTION SCHOOL ADMINISTRATORS-

- **Instructor & Course Expiration Dates**– Should be reviewed. ADRE Course credit cannot be allowed for an “Expired Instructor” or “Expired Course”.
- **14 Day Notice**– As of September 1, 2011 , all schools will be required to process their “14 Day Notice” online.

Education Update

What Makes the Phone Ring in the Education Division?

- School advertising violations (unauthorized advertisements by course sponsors)
- **Late** and **Out-of-state** 14-day course notifications
- Prelicensure Education recertification requests to take the examination
- Prelicensure Education, Experience, and Examination Waiver requests
- Upcoming Instructor Renewals

EDUCATION ADVISORY COMMITTEE (EAC)

New Education Advisory Committee (EAC) appointments to be announced August 1, 2011. ADRE is in the process of reviewing several interested applicants for EAC positions. Please visit www.azre.gov to follow the EAC activities. Next EAC meeting is September 13, 2011 at the ADRE from 10:00 a.m. to Noon, unless otherwise stated.

A huge "Thank You" to our current members who have served the past two years:

- | | |
|------------------|--------------|
| • Holly Eslinger | Jon Kichen |
| • Lin Ferrara | Tom Heath |
| • Jim Marian | John Latardo |
| • Jim Hogan | Andy Jaffe |
| • John Crosby | Bob Bass |



Volunteer Monitor Program (VMP)

Have you been thinking of "volunteering" but don't know where to donate your time and energy. Are you a proponent of "raising the bar" for the real estate industry and an advocate of education.

If you have a background and awareness of real estate educational processes, you're a good candidate to be a Volunteer Monitor. If you are chosen to be a volunteer monitor, you will act as the eyes and ears of the Department around the state in our many scheduled real estate courses. Open to real estate licensees...no Educators please.

If in your resume and a letter of interest to Carla Randolph, Education Division Manager at crandolph@azre.gov

As a licensee, you will receive continuing education credit

Real Estate Advisory Board

The Real Estate Advisory Board meets every other month from 10:00 a.m. to Noon. The scheduled meeting for the balance of the year are July 13, September 14 and November 17. Meetings are held at 2910 N. 44th Street, Conference Room, 1st floor. The public is always welcome.

Currently vacancies exist on the Board. If you are interested in serving, please visit the State of Arizona's Boards and Commissions.

Click <http://azgovernor.gov/bc/>

ARELLO® EXAMINATION ACCREDITATION PROGRAM
Top Ten Questions and Complaints on Real Estate Licensing Exams

The objective of this information is to provide regulatory administrators, education directors, commissioners as well as pre-licensing course developers and instructors with non-technical responses to the top ten questions and complaints on the national (or general) portion of real estate licensing exams accredited by ARELLO®. These responses are not sufficient to address legal challenges to exam validity and reliability and are meant only as a resource to impart a non-official conceptual level of understanding to aid in communication and resolve misunderstanding.

#1 Nothing on the exam tests on what is important to know in order to be successful in the real world of real estate brokerage. Even the broker I want to work for (who said I'd be a good agent), said the exam doesn't test what it should.

This is true in part; and a matter of perspective. The exam does not test on what it takes to be successful in the business of real estate. The knowledge and ability being tested on licensing exams is only that which is directly related to what is necessary for safe practice and public protection. Regulatory agencies exist to protect the public and ensure that those who practice a profession have, and maintain, the knowledge and ability necessary to protect the public's interest. Although there are many factors that are important and directly related to personal success in a profession; the lack of these skills may not present a clear and present danger to the public.

The bright line question is - Whose interest is directly affected? For example, the knowledge and ability necessary to competently prepare a listing contract is directly related to public safety; the ability to promote and market one's self in order to get the listing (although critical for personal success in business) does not affect the public's interest.

#2 Is the exam valid? How is it determined what subject areas go on the test and that they are relevant to what is necessary to know?

To be valid and legally defensible, the subject area content (categories of knowledge and ability) being tested must be derived from actual activities and tasks performed by practicing professionals, the knowledge of which is determined to be essential for an entry-level practitioner.

The accepted method of determining the subject area content of an exam is to perform a detailed job task and knowledge/skills analysis process that involves a survey of licensed real estate professionals to determine all the

Activities and tasks that are performed by real estate licensees (and the relative frequency and importance of such tasks) as well as the subject matter related to those tasks that an entry-level licensee must master in order to act in a manner that protects real estate consumers (including the relative importance of the various topic and the level of competence [e.g. recall, application or analysis] needed by such licensees for each topic).

- Based on an analysis of the survey results, subject matter experts* and test development specialists develop examination content specifications (essentially a detailed examination content outline) that serve as the basis for the development of questions and the assembly of the alternate versions of the exam. These specifications will categorize subject area topics to be tested in outline form and will indicate the number of questions on each topic to be included on each exam based on the relative importance of the topic and the nature of the subject matter.

For example, for the task "Assist clients in negotiating leases," the general subject area might be "Landlord and Tenant," major sub-topic might be "Leases," and a minor sub-topic might be "Types and Characteristics of Leases."

- As part of its accreditation process, the ARELLO® Examination Accreditation Committee performs an independent review to determine that the subject matter areas in the examination content outline are linked to job-related activities (as identified through the task analysis), that the subject is consistent with the survey results with regard to the relative importance of topics.

#3 I have failed the licensing exam twice. I think it's because there were so many trick questions and a lot of the questions had two answers that could be correct. It's not fair to test on the ability to answer trick questions.

- Often questions will appear tricky and confusing to those who do not have the minimal level of knowledge of professional terminology or principles; and the lack of ability to apply knowledge to a practical setting, can turn a straight-forward question into a puzzle.
- Questions may appear to have two or more correct answers to the person who does not have a minimal level of knowledge because ARELLO®

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- Guidelines for writing exam questions require that the “wrong answers” to multiple choice questions be crafted to appear plausible to the candidate who does not have the requisite knowledge.
- In addition to many other requirements, ARELLO®’s guidelines for writing exam questions specifically state:
Exam questions must be free of extraneous, ambiguous, non sequitur, illogical or confusing material and free of tricky expressions, slang, and other tricky requirements.
- There are several methods and processes employed to make sure that the exam questions are written as clearly as possible (to those who have the necessary knowledge):
 - (1) Those who write the questions are given explicit guidelines and trained to be clear in their writing; (See [ARELLO® Basic Item \(Question\) Writing Principles and Guidelines for Accreditation](#))
 - (2) A panel of **subject matter experts*** evaluates the questions for adherence to the above mentioned *Principles and Guidelines*.
 - (3) Exam questions are pretested (not used for computing candidates’ scores) to be sure they are appropriate for the exam (for example, too many people selecting a wrong answer could indicate a potentially tricky question, which would flag the question for review).
 - (4) In addition, when ARELLO® reviews the sample exams of accredited test providers, reviewers identify and report to the provider any question they think might be confusing, “tricky,” or deficient in any other manner.

#4 How is the passing score for the exam determined; and what is the justification?

- A passing score sets the minimum level of performance needed to practice a profession, and is one of the most important aspects of the validity of the examination results. The level of performance (that is, usually the number of correct answers) must be high enough to protect the public, but not so high as to unreasonably limit the number of those who wish to practice.

- To set a passing score, a research study is conducted in which **subject matter experts*** evaluate each question on an exam and form an estimate (judgment) of the percentage of likelihood that a minimally competent practitioner entering the profession (that is, a person who should just barely deserve a license) will be able to answer the exam question correctly. This is done following a comprehensive discussion and description of the general capabilities and characteristics of this practitioner describing what is needed in order to be minimally competent to perform tasks sufficient to protect the public’s interest.
- When subject matter experts make this judgment, they are estimating the difficulty of the question for this “minimally competent practitioner.”
- The difficulty estimates for each question are averaged and then summed to determine the estimate of overall exam difficulty. This estimate becomes the test provider’s recommended passing score requirement for the exam.

➤ For instance using a 4 question exam as an example, if the percentage judgments (that a minimally competent practitioner entering the profession would answer the exam questions correctly) were as follows:

Question #1-90%	Question #3-70%
Question #2-75%	Question #4-65%

➤ the average percentage of these 4 questions would be 75% and the sum 3 correct answers would become the passing point.

- Some agency jurisdictions require (by statute or rule) a particular passing point on the examination (e.g. 75%), and in these cases, exam questions may be selected not only to match the content (subject area) distribution, but also to ensure that the sum of the percentage judgments of the questions on the exam equals 75%.
- The passing point study is not repeated with every alternate version of the examination form; instead, a statistical process known as equating is usually used to ensure that the passing point represents the same

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amount of knowledge regardless of which alternate version of the exam is completed.

- The justification of these procedures is to protect the public and to allow anyone with an appropriate level of knowledge to pass. It is important to note that candidates' scores are not compared to other candidates' scores, so it does not matter to the real estate regulatory agency how many candidates pass, what matters is the amount of knowledge they have.

#5 I've been told that there are several versions of the exam that are different and that I would have to take a different version on a second attempt if I fail the first time. How can you expect to pass if you keep changing the exam? It's not fair to have versions of the exam that are different.

- It is important to make a distinction between what is commonly thought of as "different" as opposed to "interchangeable".
- Although it is true that there are multiple versions of the exam that contain different questions, they are not "different" exams in terms of their function and validity. They are referred to as alternate versions meaning they are parallel, equivalent or comparable; in other words, two or more versions that are interchangeable in that they measure the same thing in the same way and have the same properties. These interchangeable or alternate versions of the exam have the same properties. These interchangeable or alternative versions of the exam have the following consistent components: 1. the same number of questions, 2. passing score requirement is the same, 3. pass rate is the same and is proven reliable (see question #8 on Reliability), 4. subject (content) areas are the same, 5. cognitive (aptitude) level requirements are the same (same number of questions at the recall and application level), 6. equating procedures are used to adjust for differences in test form difficulty.
- If there were only one version of the exam with the exact same 80 questions, it would not take long before word would get out on what is on the exam. Exam developers use a large number of questions in each of the subject (content) areas to assemble many alternate versions of the exam in order to provide security and avoid overexposure of the individual questions.

#6 I heard that there are multiple versions of the exam and that some of them have questions that are more difficult than on other exams. I got the difficult version and failed; that 's not fair to have versions of the exam that are not equal in difficulty.

- Although it is true that a particular version of the exam may have questions that are more difficult, careful steps are taken to assure the equivalency (sameness) of all versions of the exam forms in terms of their overall difficulty.
- First, the difficulty of any alternate version (form) of the examination is considered at the time the exam is assembled utilizing performance data for the selected questions based on previous usage of the questions on actual examinations. Thus, any new version of the exam form is predetermined to have the desired overall difficulty based on the actual performance of candidates in the past, on the questions that make up the newly assembled exam form.
- Secondly, test providers typically also utilize a procedure (called scaling or equating) to adjust the number of questions needing to be answered correctly (i.e. raw score) for each examination form in order to pass and therefore make the versions equal in difficulty. The pass rate percentage reported does not change as a result of a difference in the difficulty of questions.
- Scaling adjusts for the differences in difficulty of different versions of the exam. For example if exam version #1 is one question (raw score point) easier than exam version #2, then a raw score of 29 on the easier exam #1 would reflect the same level of achievement as a raw score of 28 on the more difficult exam #2.
- In other words, the actual number of questions needing to be answered correctly in order to achieve a passing score may be adjusted to address minor fluctuations in the difficulty level of the questions on each version.

#7 The license examination is too hard! I made 90% of my school exam, but I have failed the license exam two times. I also see that only about 60% of candidates pass the license exam.

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- Regulatory agencies are not really concerned about how many candidates pass (other than as it relates to the sufficiency of preparatory programs and adequacy of the assessment devices (tests) used by schools)); they are instead concerned about whether those who do pass have the prerequisite knowledge to be likely to not harm the public. All license examination questions have been written and reviewed by groups of real estate practitioners with substantial real estate brokerage experience and have been found to meet the goal of testing for minimum competence. (also refer to the answer to questions #4).
- Different or alternate versions of the examination may seem harder, or easier to certain candidates, but all versions of the licensing examination are the same level of difficulty when averaged across all candidates (also refer to the answer to questions #6).
- The role of the school is to teach the job knowledge and abilities that are linked to the real estate content (subject areas) specified by the detailed exam content outline (which is based on the job analysis process discussed previously in #2). Schools and candidates are provided a detailed outline of the subject areas that are on the exam, the number of questions (weighting) in each subject area and a list of references (text books, study guides and scholarly resources) that can be used to develop school curriculum and prepare candidates. Another resource for curriculum development is the *ARELLO® Model Guidelines for Educational Course Development*, and may serve to assist in aligning school instructional plans with learning objectives necessary to prepare candidates for the licensing exam.
 - There could be any of several reasons for the different score on the school exam and the licensing examination, for example: 1) the school curriculum may not have covered the full subject area content in sufficient detail at the sub-category level, or sufficient emphasis on the weighting of subject area content (i.e. the number of questions in a particular category),

2) because of the breadth and depth of content covered by the exam, many candidates may find that they need to study more than the minimum in class time set by the regulatory agency, 3) the school exam may not be an appropriate measure of the degree of difficulty necessary to determine competency, and/or 4) candidates may have been more nervous taking the licensing examination and did not exhibit their best performance.

- Before retaking the examination, candidates should attempt to learn from their previous experience-the exam score report will provide diagnostic feedback on candidate content, subject area strengths and weaknesses, and prior to testing again candidates would be wise to study in content areas in which they did not do as well.

#8 How do I know the test is reliable? I have taken the exam five times and all my scores were between 72 and 74, (and the passing score is 75).

- This is a valid and important question. It is particularly important to the person who failed the exam because it affects their ability to make a living; and equally important to regulators because if an exam yields inconsistent (unreliable) scores it is likely that the exam may be legally challenged as an ineffective measure of preparedness to practice.
- Think of “reliability” as the consistency or reproducibility of an exam’s ability to measure an examinee’s performance on the exam. If you step on a scale five times in immediate succession (without having a cheeseburger in between), you would expect the scale to read the same weight; which means the scale is proven consistent and therefore reliable.
- Likewise, if you were to administer an exam with high reliability to the same person on two separate occasions, (or in this case five occasions), you would expect (all things being equal), that the results of the performance would be consistent. An exam with poor reliability, on the other hand, might result in very different scores.
- A testing expert (Psychometrician) would say that the five scores grouped so tightly between 72 and 74 is evidence that there is a high degree of reliability in that the scores are consistent. You might be concerned about reliability if the scores ranged from 74 to 50.
- inferred to be reasonably dependable and repeatable

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- Reliability is the degree to which test scores for a group of test takers are consistent over repeated administrations of an exam and therefore can be inferred to be reasonably dependable and repeatable for individual test takers or subsequent groups (*Standards for educational and Psychological Testing, 1999*).
- The licensing exam is reliable because the scores are consistent among those who take the exam (or alternate versions) over all administrations of the exam over an extended period of time the exam is administered. (e.g. the scores and number of those who fail is consistent.)
- It is also noteworthy that the performance of exam “repeaters” is considerably lower than the performance of first-time exam takers and the success rate of exam takers declines the longer the time between prelicensing course completion and the date of examination. Thus, unless a failing candidate has taken substantial steps to improve their knowledge of the subject matter since his/her previous exam attempt, his/her performance is more likely to decline on subsequent exam attempts rather than to improve.

#9 I heard there are experimental questions on the exam. How do I know which ones they are and that I’m not being scored on experimental questions? Why should I have to spend my time answering questions that don’t count anyway?

- There are experimental questions on the exam. There are typically 5 such “pre-test” questions on each exam. The response to these pre-test questions are not counted when determining a candidate’s exam score. The time it takes to answer the pre-test questions is considered by the licensing agency when they establish the amount of time in which to complete the exam.
- New exam questions need to be developed to address changes in the real estate brokerage and to increase the security of the exam by replacing questions that have had a lot of exposure.
- There is a lot at stake in developing licensing exams. Essentially the exam determines who can earn a living as a real estate licensee. Therefore licensing agencies and everyone who takes the licensing exam wants assurance that the questions are proven as valid and reliably able to distinguish between those who truly have the required knowledge and those who do not, before they are used in determining a candidate’s score.
- Therefore it is necessary for the greater benefit of all concerned, to take measures that are known to

ensure that the exam questions are valid, reliable and fair.

- The proven method is to introduce pre-test questions to a population that is prepared and motivated to apply their best efforts in answering them and then compare how the questions perform statistically with questions that are known to be valid, reliable and fair.
- It is important that candidates not know which questions on the exam are pre-test questions so that they will make a conscientious effort to answer these questions and not just mark an answer without thought, or skip the questions.

#10 I heard that the real estate agency uses the exam to limit the number of people who enter the profession so that there will be less competition and more money for the existing licensees. I think it’s a conflict of interest that people who are already licensed should be controlling who enters the business.

- Sometimes candidates are unfamiliar with the difference in structure, function and separation between governmental regulatory agencies and professional trade organizations such as the Realtors®. The misconception is that they are one and the same.
- Governmental regulatory agencies are charged with enforcing laws necessary to protect the public and have no interest in the number of people who participate in the market place, other than that they are competent to do so.
- Many real estate agencies utilize practicing licensees (sometimes called commissioners) to serve as policy advisors and hear disciplinary cases against licensees. The benefits of the involvement of persons active in any occupation in the licensing and regulation of that occupation is considered to greatly outweigh any slight risk of misuse of their position for the purpose of restricting competition in their occupation.

Subject Matter Experts (SME) are people who are generally acknowledged as having expert knowledge in a particular content area or areas that are being measured on a particular test. All testing programs accredited by ARELLO® make use of SMEs, whether they call them that or by another name. SMC Committees for real estate licensing exams generally include those persons with experience in: (1) teaching and/or developing pre-licensing courses that are relevant to the exam content areas, (2) authorship of principles and practices, law or reference books that are relevant to the exam content area, (3) the practice of real estate brokerage as a licensee, (4) the regulation of practice relevant to the profession of the exam being administered, (or) (5) other relevant occupation such as experience as an attorney-educator that is relevant to the exam content area.

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that or by another name. SME Committees for real estate licensing exams generally include persons with experience in: (1) teaching and/or developing pre-licensing education courses that are relevant to the exam content areas, (2) authorship of principles and practices, law or reference books that are relevant to the exam content area, (3) the practice of real estate brokerage as a licensee, (4) the regulation of practice as an attorney-educator that is relevant to the exam content area.

ARELLO® is the Association of Real Estate License Law Officials, comprised of the official governmental agencies and other organizations around the world that issue real estate licenses or registrations in addition to regulating real estate practice and enforcement real estate law. Commissioner Lowe is an active member of ARELLO®

* Advisory: Arizona selected Pearson VUE as the State Real Estate Licensing Vendor in July 2010. Pearson VUE is ARELLO® certified and meets the Accreditation Guidelines.

WHAT IS YOUR RESPONSIBILITY AS A LICENSEE?

1. Personal Information – must be current at all times regardless of license status–
 - Update within ten (10) days of any change to home or mailing address; telephone number and email address.
2. Email address included in personal information – receive vital information from the Department
3. Continuing Education (CE) – must be uploaded www.azre.gov to the Department every two (2) years
4. Legal Presence – Pursuant to ARS § 41-1080 all licensees must provide the Department with proof of legal residency - Remember, this must be submitted on-line, and ADRE approved prior to license renewal.

WHO TO CALL? ARIZONA DEPARTMENT OF REAL ESTATE OR ARIZONA ASSOCIATION OF REALTORS®

Both the Arizona Department of Real Estate (ADRE) and the Arizona Association of REALTORS® (AAR) receive calls from members of the public and real estate licensees with questions, concerns or a desire to file a complaint. The ADRE may refer calls to AAR that cannot be addressed at ADRE. Many of the callers attempting to obtain guidance become frustrated. Some of these calls may get directed to AAR because the caller uses the term “REALTOR®”. Many members of the public are not aware the term “REALTOR®” is a trademark; therefore, they often use it in reference to real estate licenses in general.

AAR can address Code of Ethics violations:

AAR can assist an individual who wants to file a complaint against an AAR member alleging a violation of the NATIONAL ASSOCIATION OF REALTORS® (NAR) Code of Ethics. The Code of Ethics imposes duties that apply only to real estate professionals who choose to become REALTORS®. You can find information on filing such a complaint at: www.aaronline.com/Disputes/Ethics.aspx

AAR cannot address legal or regulatory questions:

AAR members with legal questions may be referred to their Designated Brokers, who have access to the lawyers on the AAR Legal Hotline for these types of issues. For information regarding access to the AAR Legal Hotline, members may be directed to: www.aaronline.com/documents/LH.aspx.

Members of the public with legal questions may be referred to independent legal counsel. Certified Specialists may be located through the Arizona State Bar at: www.azbar.org/LegalResources/findlawyer.cfm or they may call the State Bar at (602) 340-7327.

- ADRE can address questions regarding licensure.
- ADRE can address questions regarding education-
- Pre-licensure and Continuing Education.
- ADRE can address questions regarding complaints against licensees.
- ADRE can address questions regarding the Recovery and Condo Fund.
- ADRE can address questions regarding disciplinary issues.
- Before calling ADRE, first visit our website www.azre.gov for answers to your questions.

Q&A ABOUT WHO QUALIFIES FOR ARIZONA'S 'SAVE OUR HOME' PROGRAM

By Catherine Reagor, The Arizona Republic– July 5, 2011

An Arizona Housing Department program called Save Our Home AZ gives qualified homeowners cash assistance to make their mortgage payments if they are unemployed or underemployed.

The program uses \$36 million of a Treasury Department allocation given to states suffering the most from the real-estate crash.

Homeowners can qualify for up to \$2,000 a month to pay their mortgages for as long as 24 months.

But not enough Arizona homeowners know about the program or are applying. Fewer than 100 of the state's homeowners have received the aid so far.

The Arizona Republic and 12 News held an online and call-in session last week to try to get the word out to those struggling to avoid foreclosure.

Here are some questions from homeowners and answers from housing counselors:

Question: I have been unemployed since August 2010 and have been using my savings to pay bills and mortgage. Can I get help before my life savings are gone? I am current on my mortgage and don't want to lose my house to foreclosure.

Answer: You should go to azhousing.gov and apply. The qualifications of the program have been changing, so you may now be eligible.

Q: I have applied for disability due to an illness and have not been approved yet. I am five months' behind on my mortgage. Would I qualify for this program?

A: Unfortunately, you would not qualify. But do call the foreclosure hotline at 877-448-1211.

Q: I did not qualify for unemployment because the non-profit I worked for did not pay into the system. I have been unemployed for over a year. Can I qualify? My home is not in foreclosure yet, but I am headed there.

A: You are definitely eligible to apply. Please go to azhousing.gov and complete the self-assessment.

Q: My husband lost his job, so we sold our rental property and have some money in the bank. But it's going very fast just to pay the bills on the house we live in.

A: Sounds like you are eligible. Go to azhousing.gov and fill out the self-assessment.

Q: Hi. I went to azhousing.gov and did a qualification test. It said I was not qualified. I'm the only person in my household and unemployed.

A: Your lender or servicer may not allow you to receive the help. But apply at azhousing.gov anyway.

A: Go back and read each question carefully and fill it out again, please.

Q: Do I qualify if I am in Chapter 13 bankruptcy?

A: Your lender or servicer may not allow you to receive the help. But apply at azhousing.gov anyway.

Q: I just took the quiz. I am unemployed as of Friday. Previously, I made less than \$1,500 a month with a \$1,050 mortgage payment plus bills. We are current on most of our bills and mortgage.

A: The program dictates all mortgage payments must be two months past due. And you must apply for unemployment benefits.

Q: I tried the self-assessment test. The results said I might not qualify. I am not sure why. I do not have a job and my mortgage is current.

A: It's because you are current on your mortgage. The program requires a borrower to be behind on at least two mortgage payments.

Q: I have been unemployed since December. Am I eligible? I finally received a loan modification in December after trying for two years.

A: Yes, you are eligible. Go to azhousing.gov, click on foreclosure sign and take the self-assessment.

Q: I've been unemployed for six months but have been able to make mortgage payments because of severance pay and savings. But now, I am out of severance, and I only have four months of savings left before losing my house. Please help me.

A: You must first apply for unemployment benefits, and you can't be current on your mortgage. Housing counselors say to go to azhousing.gov, click on the foreclosure sign and apply.

*The views expressed in this article are not necessarily those of the ADRE.

REQUESTS FOR ARTICLES AND/OR ISSUES/CONCERNS

We are seeking articles and questions on any issues/concerns facing licensees and consumers which can be addressed in the Bulletin.

Please email Mary Utley at mutley@azre.gov
Keep your submission to 500 words or less.

We reserve the right to edit and/or modify, if necessary.

UNLICENSED REAL ESTATE ACTIVITY IS RAMPANT

The topic of unlicensed real estate activity breaks into two distinct categories: brokers and developments. This article addresses only brokers. Illegal development activity (mostly subdivision/lot splitting) is a subject for another time.

Over the past several years, I have seen an escalation in the practice of unlicensed broker activity, in Arizona and in other jurisdictions. Unlicensed activity is a hot topic in broker circles. The general consensus is that regulators are not making enough of a priority out of going after unlicensed activity. As you will see below, Arizona's Commissioner of Real Estate *has* made unlicensed activity a regulatory priority.

When does a person require a broker's license? The law states that a real estate broker is a person (including an entity) that conducts any one of 16 enumerated activities "for another and for compensation." If a person lists for sale or lease, offers or attempts to sell, purchase or lease, negotiates, advises and counsels, procures prospects, or advertises or markets to Arizona residents incident to real estate, and does so for another person in anticipation of being paid for the activity, then an Arizona real estate broker's license is probably required.

Unlicensed broker activity is a class 6 felony in Arizona. ADRE lacks criminal jurisdiction, however, ADRE's administrative authority is impressive. In the past year, ADRE has issued two cease & desist orders against persons involved in unlicensed broker activity:

[Arizona Management Investment, LLC](#)

[Instant Offices USA](#)

[Your Stay Accommodations](#)

These C&Ds are well worth the reading – very informative. Note that all three of these C&Ds resulted from complaints. Consider making a complaint to ADRE when you observe unlicensed activity. You jumped through the license hoops so you could practice legally. Why shouldn't others?

Q – Are other jurisdictions similar to Arizona? Won't my Arizona license allow me to market my Arizona listings into other jurisdictions?

A – Most other jurisdictions have laws very similar to Arizona's. For instance, if an unlicensed company from California must comply with the Arizona real estate license act before the company can solicit Arizona residents, why would you think you could market into California without first complying with California's laws? Yes, there are nuances in all jurisdictions' real estate laws. But the probability is you will need to be licensed in the jurisdiction in which you wish to conduct real estate.

Q – Does ADRE have jurisdiction over me if I get caught in another state or country conducting real estate without a license? As an example, many Arizona licensees are marketing into British Columbia and Alberta, because British Columbians and Albertans are red-hot prospects for Arizona investment properties and second homes.

A – The answer is both No and Yes, in that order. Technically, ADRE has no jurisdiction over your real estate activity in another state or country. However, if you are busted there for unlicensed activity, you might be required to disclose the order to ADRE within 10 days. BTW, an administrative penalty was recently issued by the Real Estate Commission of Alberta against an Arizona licensee conducting real estate seminars in Alberta, assessing a fine in the amount of \$25,000 against the licensee.

Thanks for this article are owed to Edwin J. Ricketts, CIPS, RSPS. Mr. Ricketts is a licensed real estate broker in AZ, AL, AB, AK, CA, CO, UT and WA, educator, consultant, expert witness and ADRE Deputy Commissioner 1991-1997. 602-277-4332.

ADRE regulates original sales offerings of five types of developments: subdivisions, unsubdivided lands, cemeteries, membership camping and timeshare. Illegal subdividing accounts for almost all unlicensed development activity in Arizona. Although there is no quantifiable evidence demonstrating an increase in unlicensed activity, the anecdotal evidence abounds. ARS §32-2101(48).

The subject of "compensation" is also the topic for a future article. ARS §§13-702, 13-801 and 32-2165. Conviction of a class 6 felony may result in up to two years imprisonment and a \$150,000 fine. ARS §32-2154. ADRE can issue an order "directing any person to cease and desist, ...to make restitution or to take appropriate affirmative action, (and) ...to correct the conditions resulting from the act, practice or transaction." AAC R4-28-1101(F).

Disclaimer:: The views expressed in this article are not necessarily those of the ADRE.

DEPARTMENT OF JUSTICE EXPLAINS NEW AMERICANS WITH DISABILITIES RULES

The U.S. Department of Justice (DOJ) has issued two publications that explain the new rules implementing the Americans with Disabilities Act (ADA) that went into effect on March 15th. According to the DOJ, the new regulations apply to more than 80,000 units of state and local government and more than seven million places of "public accommodation". The new rules adopt the "2010 ADA Standards for Accessible Design", which have been retooled to be more user-friendly and harmonized with state and local accessibility codes. The rules include, for the first time, accessibility standards for pools, parks, golf courses, boating facilities, exercise clubs and other recreation facilities. Entities covered by the ADA have until March 15, 2012 to comply with the new accessibility standards. In addition, the regulations contain new or expanded provisions on general nondiscrimination policies relating to matters such as the use of service animals, wheelchairs and other power-driven mobility devices, reserving and guaranteeing accessible rooms at hotels and the effect of the regulations on existing facilities. The compliance date for the nondiscrimination provisions, except for those on hotel reservations, was March 15, 2011. In connection with the new rules, DOJ has released two explanatory publications, ADA Update: A Primer for Small Business and ADA 2010 Revised Requirements: Effective Date/ Compliance Date and will be issuing periodic updates. For more information, please go to <http://www.ada.gov> (Reprinted with ARELLO permission)

PROOF OF LEGAL PRESENCE

ARS §41-1080 requires licensing agencies, including the Arizona Department of Real Estate (ADRE), to obtain proof of the license applicant's legal presence in the United States prior to issuing (or renewing) a license. ADRE may issue/renew a license only after receiving proof of licensee's legal presence in the United States. **Further, Effective July 20, 2011, if the identification you provide does not contain a photograph (i.e. birth certificate), you must also submit a government issued document that contains a photograph.**

To ensure the document is received in time for ADRE to process a renewal prior to the actual expiration date, ADRE **STRONGLY** recommends this information be submitted well in advance of the renewal date. This requirement need only be completed once; it is not required of subsequent renewals

2012 CHANGES TO RECEIVING YOUR HOMEOWNER'S TAX REBATE

In February of this year, the Arizona State Legislature passed HB2001 (Arizona Commerce Authority; business incentives) during a special session dedicated to job growth in Arizona. The bill enacted many provisions to encourage business growth in the state of Arizona, and it also made a few changes to property tax exemptions for homeowners in Arizona. One of those changes will affect all Arizona homeowners beginning in 2012, please be advised of the following:

Beginning in 2012, every homeowner will be required to certify, by way of affidavit, that their home is their primary residence in order to obtain the homeowner's tax rebate. This certification will be required by law to occur every two years, in the even-numbered years.

The County Assessor will include with the notice of full cash value, sent to owners of class three property, an affidavit on which the owner must declare whether the property is the owner's primary residence, or leased or rented to a relative of the owner, and used as the relative's primary residence in the current valuation year. The homeowner must fill out the affidavit and return it with the assessment valuation to the county assessor's office within 60 days of receiving the assessment in order to receive the homeowner's rebate.

Be advised that people who own secondary homes or vacations homes will not be eligible to receive the rebate on those properties.

A DESIGNATED/SELF-EMPLOYED BROKER'S RESPONSIBILITY

- Monitor ADRE's Broker online homepage for alerts and pending action items frequently.
- Print Broker and/or Entity License to post in brokerage.

General Licensing Supervisory Responsibilities ensure all licensees under the broker's supervision are current in the following:

- Continuing Education (CE)
- Legal Presence
- License Status
- Renewal Dates.

SOUTHERN ARIZONA BROKER MEETINGS!

Stay informed! Attend the **Broker Connection Meetings** held at the Tucson Association of REALTORS®

On May 23, 2011 over 100 Southern Arizona Brokers attended the Broker Meeting held at the Tucson Association of REALTORS®. The meeting was hosted by Commissioner Judy Lowe and featured guest speakers were:

- Michelle Lind
- Rick Mack
- Mike Monroe
- Lisa Robinson

Topics of discussion were:

- Issues the current market presents
- Solutions to issues-protecting ourselves as brokers, our agents and most importantly the public.
- What's happening to the North, in Phoenix, that may be headed our way-
- Updates from the National Association of REALTORS® and the ADRE.

A very special "Thank You" to Kim Clifton of Tierra Antigua, who took the time to make personal contact with Southern Arizona brokers to encourage them to attend the meeting. Her efforts led to making the meeting a huge success!!

FORGOT YOUR PASSWORD? NO NEED TO CALL THE DEPARTMENT



To reset the online password:

- From the Login Screen enter the **License Number**, **Social Security Number Suffix** and **Date of Birth**.
- From the **Password Already Created** screen click the link in the third bulleted item to **answer the secret question**.
- From the **Password Reset** screen answer the Security Question.
- After successfully answering the Security Question click the **Return Home** button to navigate to the Home page where a **new password** can be created by clicking the **Change Password Quick Link**.

A LOOK AT "PROPERTY FLOPPING": OHIO BROKERAGE TAKES PROACTIVE APPROACH, NORTH DAKOTA REPORTS "ANTISTAGING" TWIST

The recent focus of the Ohio Division of Real Estate and Professional Licensing on emerging "property flopping" schemes has prompted an Ohio brokerage firm to issue an office policy that prohibits its agents from participating in simultaneous closings. The Division thinks so much of the idea that it has published a redacted version of the policy and is urging other Ohio brokerage firms to consider adopting it. Meanwhile, as reported by the North Dakota Real Estate Commission, emerging property flopping schemes include a new twist called "anti-staging".

A Proactive Brokerage Policy

The Division's Winter 2010-2011 Newsletter announced that, in response to the Spring article and other guidance published by the Division on the subject of property flopping, an Ohio brokerage issued the following communication to its associates:

Policy:

It's come up before and in a variety of ways. With the abundance of short sales in the market there is always a new investor/negotiator/flopping plan being proposed. While some of these plans are perfectly legal, all are complicated and fraught with potential misunderstandings, deficiencies in disclosure, and future liability. There always seems to be a new wrinkle that someone thinks makes it better and more acceptable to our business ethics...we don't think so.

So we've tried to boil it down to its simplest form...sales involving a simultaneous close will not be represented by a [Brokerage] agent. Those transactions where a [Brokerage] agent represents an investor who submits a short sale offer, negotiates a short sale price, and then resells the property at a profit to an end-user buyer, with both closing happening in close proximity (simultaneous or within a couple of days) are not welcome at [Brokerage]. Certainly we will participate in transactions in which an investor negotiates to buy a short sale property, closes on the property, then remarkets to an end user, closing however much

later it takes...but no simultaneous closes. Flipping is acceptable, flopping is not. Please consider this company policy and advise agents accordingly. [The brokerage policy also includes a link to the Freddie Mac website.]

The Division said that, "This is a proactive, effective policy, and we encourage each brokerage in Ohio to follow this broker's lead and issue something similar. The names have been stricken from the directive...so that it can be used as a template for other brokerages to employ."

Variations on the Scheme

There are many known variations of property flopping schemes and both industry and government reports have, for several years, identified flopping as a continuing scourge on U.S. real estate markets.

For example, in its periodic Mortgage Fraud Report (s) the U.S. Federal Bureau of Investigation (FBI) has repeatedly warned of schemes that involve transaction principals who collude with appraisers, real estate agents (who sometime provide a broker price opinion to support the scheme) and mortgage originators to undervalue the property, arrange financing and negotiate a short sale with the bank or other lender. The FBI says that the schemes continue to focus on the distressed properties of homeowners who are unemployed or facing foreclosure.

In another variation, the North Dakota Real Estate Commission's Real Estate News and Views Fall 2010 issue contains an article by Commissioner Diane Louser which notes that companies are apparently being set up around the U.S. to search for vacant homes for the purpose of carrying out flopping schemes. Commissioner Louser writes that some recent schemes, also called "dual deedings" or "simultaneous closing" transactions, have involved "anti-staging."

A Look at "Property Flopping": Ohio Brokerage Takes Proactive Approach, North Dakota Reports "Anti-Staging" Twist

In this scenario, a vacant home is deliberately damaged by removal of appliances, fixtures, doors, etc. According to the article, some have gone to the extent of allowing animals in the home, resulting in soiled floors and damage to the interior. However, the damage is generally only cosmetic, so that, once pictures are taken for the bank and appraisals are completed (often by appraisers who are selected from a pool and who may not be familiar with local markets), a reduced value is established. The short sale is completed, the property is immediately rehabilitated and cleaned and is then sold for a profit to the new buyer.

As Commissioner Louser suggests in the article, "Bank fraud is on the rise and is becoming a big business. Because of the effect of these types of short sales not only on lenders, but on the housing market and economy as a whole, it is likely we will be seeing more investigations, complaints, and litigation in this area in the days and months ahead."

(Originally printed in the ARELLO BOUNDARIES: March 2011; reprinted with ARELLO's permission)

PROPERTY MANAGEMENT FEDERAL REPORT OF 1099 REPORTING REQUIREMENTS

In the last *Dialog* (Volume 2011-Issue 1), there was an advisory to our property management licensees with regard to updated 1099 Reporting Requirements. Please be advised that, as a result of bipartisan Congressional support for small businesses, President Obama signed into law on April 14, 2011 the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011." This Act repeals the expansion of the 1099 reporting requirements that were included in the 2010 Patient Protection and Affordable Care Act and Small Business Jobs Act. The Act amends the Internal Revenue code to:

1. Repeal requirements for the reporting to the Internal Revenue Service (IRS) of payments of \$600 or more to corporations that are not tax-exempt and of gross proceeds paid in consideration for any type of property;
2. Repeal requirements for reporting payments made with respect to rental property which is not part of a trade or business; and
3. Increase, for taxable years ending after Dec. 31, 2013 the advance applicable dollar amount of the tax credit for health care premium assistance for taxpayers whose household income is less than 400% of the poverty line.

BROKER PRICE OPINIONS (BPO)

In light of recent discussions on the topic of Broker Price Opinions, the Arizona Department of Real Estate would like to offer the following information highlighting the laws and regulations governing the offering of broker price opinions.

The Board of Appraisal's statutes provide for exemptions for needing an appraisal license. The exemption in A.R.S. § 32-3602(1) is for a real estate broker or salesperson who is licensed in this state and who, when acting as such, gives an opinion as to the price of real estate if this opinion is not referred to as an appraisal. This exemption is what we refer to as a Broker Price Opinion. Provided that a licensed salesperson/broker does not indicate that they are providing an "appraisal," they are authorized to give an opinion as to the price of real estate.

Further, always be advised that in all real estate service transactions, pursuant to A.R.S. § 32-2155(A), a licensee shall accept employment and compensation as a licensee only from the legally licensed broker to whom the licensee is licensed. Salespersons cannot accept direct payment for providing broker price opinions; payment must always come through their broker.

Be mindful that, pursuant to Sec. 1126 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. "In conjunction with the purchase of a consumer's principal dwelling, broker price opinions may not be used as the **primary** basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property."

Further, the Act defines that for the purposes of this section, "broker price opinion means an estimate prepared by a real estate broker, agent, or salesperson that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model, as defined in section 1125(c)."

ADRE MODEL BROKER'S POLICY & PROCEDURE MANUAL

On May 26, 2011, the ADRE sent out an Informational Alert notifying all licensees that the Broker Office Policies Model Committee had completed the daunting task of updating and developing new sections to the **ADRE Model Broker's Policy and Procedure Manual**.

The **Broker's Policy and Procedure Model Manual** is available at www.azre.gov/Aud/Documents/BrokerOfficePoliciesManual.pdf

New sections to the manual:

- Buyer Advisory (Information link)
- City Ordinance compliance
- Insurance: Health/Life & Dress Code
- Internet/Websites/Social Media/Blogs (Advertising)
- Areas of Expertise
- Electronic/Digital Signatures
- MLS
- Partnership Agreements between Sales Associates
- Request for Information or documents by subpoena or Government
- Short Sales
- Submission of Documents
- Use of Transaction Management Agreement
- Unlicensed Assistant
- Privacy Policy/Data Security
- Special Government Programs (HAMP/HAFA)
- Social Media Leases
- Trust Accounts
- Weapons Law
- Employees (Additional considerations for unlicensed office staff)

Disclosure

- Fissure Maps
- Dangerous Drug Lab Disclosure
- Out of State/Out of Area Co-brokerage
- Affidavit of Disclosure (New Web links)
- Airport Disclosure (New web links)

A very special **"Thank You"** to the Broker Office Policies Model Committee:

Holly Eslinger Michelle Lind
Tom Fannin Jan Steward
C. Dale Hillard

BROKER MANAGEMENT CLINIC (BMC)

What is it and When is it needed?

Broker Management Clinic follows prescribed content and may focus on a particular type of real estate business, such as property management, residential or commercial real state.

A BMC is needed for:

- NEW BROKER APPLICANTS– before application
- DESIGNATED BROKERS/SELF-EMPLOYED BROKER– At every renewal.

DESIGNATED BROKERS-OUT OF OFFICE NOTIFICATION TO ADRE

Time out of Office

- Less than 5 days- N/A
 - None, as long as the Designated Broker can be reached
- 5-30 days or less-Delegate:
 - A licensed:
 - Associated Broker
 - Designated Broker
 - Letter delegating temporary authority-to be maintained at brokerage and attached to/filed with all hire/severs and renewals submitted to ADRE.
- 30 days or more– N/A
 - Designated Broker must resign and brokerage must hire a new Designated Broker-see Questions and Answer to Hire/Sever at www.azre.gov

LEGISLATIVE OVERVIEW FOR ADRE LICENSEES 2011

The Arizona State Legislature adjourned *sine die* on April 20, 2011. The following bills were passed and signed into law by the Governor and affect the Department of Real Estate and related industries. Please be advised of all of the following. The general effective date of the bills is July 20, 2011, unless otherwise stated.

Please be advised that this list is not comprehensive and therefore may not include all bills that directly or indirectly affect ADRE licensees. Please visit the state legislature's website at www.azleg.gov for more information.

General:

SB1292 real estate; education; broker requirements (*General effective date, however please note that the provision that requires instructors to attend a three hour workshop is applicable beginning Jan. 1, 2012*) – requires that the real estate exam demonstrate that the applicant has an appropriate knowledge of other real estate practices and principles as determined by the Commissioner; allows the Commissioner to withdraw or deny instructor certification for instructors teaching course content that is not current or that has been substantially changed from the course as approved; starting January 1, 2012, requires that instructors take a three hour department-approved seminar or workshop emphasizing instruction methods, techniques and skills in the 24 months prior to application or renewal; allows for the instructor seminar provision to be waived based on individual request review; finally the bill changes the number of days that brokers have to review listing agreements, purchase or nonresidential lease agreements or similar instruments from five to ten business days and defines business day as “a day that is not a Saturday, a Sunday or any other legal holiday in this state.”

****Please note that the continuing education provisions originally included in SB1292 relating to post-licensing education for salespersons and broker supervision are not included in the final version of the bill that was passed and signed by the Governor.***

HB2102 license eligibility; authorized presence – makes changes to the lawful presence requirements that licensees have to abide by; exempts an applicant if all of the following apply: (a) they are a resident of another state, (b) they hold the equivalent license in that state that they are seeking in this state, and (c) they seek the Arizona license to comply with this state's licensing laws and not to establish residence in this state; clarifies that if the document the applicant uses to prove lawful presence does not have a photograph, they must also present a government issued document that contains a photograph.

SB1105 real estate transfer affidavit; transmission – requires the county recorder, rather than the Department of Revenue, to scan and transmit an electronic copy of affidavits that are received in regard to real estate transfer to the Department of Revenue and the Arizona State Library, Archives and Public Records.

HB2153 municipalities; counties; fire sprinklers; code – prohibits a city, town or county from adopting an ordinance that mandates the installation of fire sprinklers in single family homes.

SB1458 professional licensure; out-of-state applicants – requires a license be issued without an exam to a person who is married to an active duty member of the Armed Forces and who is accompanying the member to an official permanent change of station to a military installation located in Arizona if certain provisions are met (currently holds equivalent license in good standing in another state, previously passed an exam required for the license, has not had their license revoked or voluntarily surrendered for unprofessional conduct, etc.)

SB1609 retirement systems; plans; plan design (*Certain sections become effective June 30, 2011*) – makes changes to the existing contribution and benefit structures for the Arizona State Retirement System (ASRS), the Public Safety Personnel Retirement System (PSPRS), the Elected Officials Retirement Plan (EORP) and the Corrections Officers Retirement Plan (CORP); for ASRS, removes the 85 points system for all members, retains the 80 points system for members hired before July 1, 2011; changes age plus service requirements for members hired after the effective date of the bill to: age 55 and 30 years of service, age 60 and 25 years of service, age 62 and 10 years of service, age 65; makes numerous changes to the Alternate Contribution Rate.

Developers:

HB2005 subdivisions; acting in concert (*****Delayed effective date of September 30, 2011***) – states that either the county where a division occurred, or ADRE, *but not both* may enforce “acting in concert” statutes;

LEGISLATIVE OVERVIEW FOR ADRE LICENSEES
2011 (continued)

asserts that a familial relationship alone is not sufficient to constitute unlawful acting in concert; permits the county to waive the requirement to prepare, submit and receive approval of a preliminary plat as a condition precedent to submitting a final plate, as well as waive or reduce infrastructure standards or requirements; states that a creation of six or more lots, parcels or fractional interest is not subject to public report requirements when the sale or lease of a lot, parcel or fractional interest occurs ten or more years after the sale or lease of another lot, parcel or fractional interest and the other lot, parcel or fractional interest is not subject to public report requirements and is treated as an independent parcel, unless upon investigation by the Commissioner, it is found that there was evidence of intent to circumvent the subdivision laws; removes the provision that states that the commissioner may “take whatever other action he deems necessary to ensure compliance with the subdivision laws of this state”; states that the Commissioner has no longer than five years after an initial complaint is received or the commissioner initiates an investigation to determine if there was a violation of the subdivision statutes; finally, the bill limits the liability for developers when an untrue statement of material fact or omission of material fact on a public report is made by limiting the amount in damages that have to be paid.

SB1525 city; town; development fees (Section 9-463.05 becomes effective Dec. 31, 2011) – makes numerous changes to the statutes governing municipal development fees and infrastructure improvement plans.

Homeowners’ Associations:

HB2245 homeowners associations; open meetings; recordings – allows persons attending HOA meetings to tape record or videotape portions of the meeting. The Board of Directors of an HOA is allowed to adopt reasonable rules governing the taping of open meetings, but may not preclude the tape recording or videotaping.

HB2609 homeowners associations; signs; political; leasing – makes various changes to laws governing HOAs; prohibits HOAs from charging fees for the use or placement of an indoor or outdoor display of for rent or

lease signs by a property owner on their own property; allows HOAs to prohibit signs that are not commercially produced; permits the HOA to prohibit the number of political signs earlier than 71 days, rather than 45 days before an election through 3 days after, rather than 7 days after an election and states that an HOA cannot prohibit the number of political signs that are displayed, except that maximum aggregate total dimensions of all political signs may not exceed nine square feet.

HB2717 homeowners’ associations; penalties; attorney fees – prevents an HOA from charging a fee for the use or placement of indoor or outdoor display of a for sale or lease sign by a unit owner on their property; clarifies that an HOA shall not prohibit in any other way than as specifically authorized in statute the use of temporary open house signs, a unit owner’s or their agent’s for sale sign and open house hours for property that is available for sale or lease; states that an HOA or managing agent that violates certain statutes governing the use of indoor, outdoor or political signs by a property owner on their property forfeits and extinguishes the lien rights authorized by statute against that unit or property for a period of six consecutive months from the date of the violation.

SB1148 homeowners associations; disputes; administrative hearings – asserts that the Department of Fire, Building and Life Safety applies and enforces the statutes regulating HOAs through its hearing officer function, as well as the interpretation and enforcement of the otherwise private contracts and rules that govern those communities.

SB1149 planned communities; condominiums; document fees (Effective Dec. 31, 2011) – limits the fee that a planned community and condominium association can charge a unit owner for the preparation of required documents associated with the resale of a unit to an aggregate of \$400.

SB1326 flag display; homeowners associations – prevents an HOA from prohibiting the display of the Gadsden Flag; prevents an HOA from prohibiting the front or backyard display of flags allowed by statute; allowed HOAs to limit the quantity of flags displayed at one time to no more than two; allowed HOAs to limit the height of the flagpole to no more than the member’s rooftop.

LEGISLATIVE OVERVIEW FOR ADRE LICENSEES– 2011
2011 (continued)

SB1540 political flyers; petitions; homeowners associations – allows HOAs to restrict door to door political activity regarding a candidate or ballot issue from sunset to sunrise; prohibits HOAs from regulating the number of candidates, public officers or propositions supported or opposed on a political sign; states that HOAs may not prohibit door to door political activity or the circulation of political petitions on property normally open to visitors with an HOA.

Property Managers:

HB2193 municipal water charges; responsibility – prohibits municipalities from requiring payment for unpaid water and wastewater rates from anyone other than the person who made the contract, resided at the property and received the service; prohibits municipalities from refusing service on the basis of unpaid water and wastewater rates to anyone but the person who resided at the property, and received the service; allows property owners and immediate family members to voluntarily contract with a city for water and wastewater services and provide payment for these services.

SB1474 landlord; tenant; fit and habitable – requires a tenant to promptly notify the landlord in writing when there is any situation that requires the landlord to take action and provide maintenance or repair; under the “self-help for minor defects” provisions of current law, prohibits the tenant from repairing the premises at the landlord’s expense if the repair does not constitute a breach of the fit and habitable condition of the premises.

SB1160 city sales tax; residential rental (retroactive effective date of Dec. 31, 2010) – prevents a city or town from imposing or increasing sales tax on residential renters unless approved by municipal voters.

SB1306 landlords; tenants; bedbug control – stipulates that the landlord cannot knowingly lease a bedbug infested dwelling unit and is obligated to provide existing and new tenants with educational materials on bedbugs; stipulates that in regard to bedbug infestation control, a tenant is obligated to do all of the following: refrain from knowingly moving bedbug infested materials into a dwelling unit, and notify the landlord by written or electronic document; specifically excludes the landlord and tenants of a single family home from provisions of the bill;

also prohibits a city, town or county board of supervisors from establishing ordinances or any other landlord or tenant requirements relating to bedbug control.

SB1166 municipal tax exemption; commercial lease – prevents cities or towns from levying transaction privilege tax, sales tax, use tax, or any similar tax on the gross proceeds of sales or gross income derived from commercial lease between affiliated corporations, if at least 80% of the voting shares of each corporation are owned by the same shareholders.

Mortgage/Escrow/Appraisal-Related:

HB2004 commercial mortgage brokers; license conversion (Effective retroactive to September 30, 2009) – allows a licensed mortgage broker to convert their license to a commercial mortgage broker and allows the Superintendent of the Department of Financial Institutions to write rules outlining the process for conversion.

HB2296 national banks; mortgage loan originators – allows federally chartered savings and loans to apply with the Department of Financial Institutions for certificates of exemption in order to supervise contracted agents as loan originators.

HB2297 escrow agents; recovery fund; repeal – repeals the Escrow Recovery Fund administered by the Department of Financial Institutions and reverts all remaining monies to the General Fund.

SB1180 board of appraisal; disciplinary proceedings – allows the Board of Appraisal to continue a disciplinary investigation even if the person under investigation surrenders their license or lets it lapse or expire; permits investigations to continue up to 24 months after the license or certificate has expired.

ZILLOW SURVEY: CONSUMERS DON'T UNDERSTAND MORTGAGES



A recent survey conducted by Zillow® Mortgage Marketplace suggests that most prospective U.S. home buyers do not understand basic concepts about real estate mortgages. Prospective homebuyers answered 46% of the survey questions incorrectly, suggesting that home buyers are "ill-prepared to take out a mortgage".

Zillow® Mortgage Marketplace Director, Erin Lantz, commented that, "Most people wouldn't jump out of a plane if they didn't know how to use a parachute, yet each year many buyers commit to the largest loan they will take out in their lifetimes without understanding essential information about mortgages. By simply spending a few hours researching how a mortgage works, and by shopping around for the most competitive rates and fees, buyers can save a lot of money."

According to the survey, 44% of the participating prospective home buyers admitted that they are not confident of their knowledge of mortgages or the mortgage process. Other results suggest that:

- More than half (57%) **do not understand how adjustable rate mortgages (ARMs) work**. When asked if interest rates on a 5/1 Adjustable Rate Mortgage (ARM) always reset higher after five years, the majority of home buyers answered "yes". According to Zillow, ARM interests rates usually adjust to the prevailing rate and some borrowers whose ARMs have recently reset have experienced lower rates.

- About one-third (34%) **don't understand that lender fees are negotiable and vary by lender**. The survey said that these respondents believe lenders are required by law to charge the same fees for credit reports and appraisals, when in fact home buyers can and should shop for the lowest fees.
- Nearly half (45%) **believe that they should always buy mortgage discount points**. Zillow says that, since mortgage discount points are simply prepaid interest, that decision should depend on how long the buyer intends to own the home.
- More than half (55%) **do not understand that mortgage rates vary throughout the day**, just like stock market prices, thus shopping for the optimum interest rate is important.
- More than one-third (37%) **believe that pre-qualifying for a loan means they have secured financing** when, in fact, "pre-qualification" is a mere approximation of what a buyer can afford. Until a lender has approved a loan application without conditions, there is no commitment to fund the loan.
- Two in five (42%) **do not understand that Federal Housing Administration (FHA) loans are available to all buyers**, not just first-time buyers.

Ipsos, a market research company, performed the survey and said that it involved a "nationally representative" sample. The results are considered accurate within +/-3.1% of what they would have been had the entire U.S. adult population been polled.

Zillow.com is a commercial real estate marketplace for consumers, real estate agents, mortgage professionals, landlords and property managers. The website features a database of more than 100 million U.S. homes for sale, rent and those currently not the market, as well as Zestimate® home valuations, Rent Zestimates and the Zillow Mortgage Marketplace.

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SHORT SALE...NEGOTIATORS AND OTHER QUESTIONS

The phone is certainly ringing at ADRE around many different Short Sale Scenarios. In this article, we will attempt to present just a few questions/answers, hoping to clarify some of the issues.

First, it is necessary to clarify that the ADRE Regulations published on February 15, 2011 are not a part of the Federal Trade Commission (FTC) "Mortgage Assistance Relief Services" (MARS) Rule. ADRE does not attempt to interpret the MARS Rule.

Q. To act as a 3rd party negotiator to a short sale transaction on an Arizona property, is an Arizona Real Estate License required?

A. Yes, an Arizona Real Estate License is required to negotiate with a short sale lender on an Arizona property. A Loan Originator License may also be required. A real estate license is required for any act, in consideration or expectation of compensation, which is included in the definition of a real estate broker, whether the act is an incidental part of a transaction, or the entire transaction, it requires a real estate license. ARS 32-212 (D) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including... Negotiating on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any transaction; (d) Engaging in any activity for which a person is required to be licensed as a real estate salesperson or real estate broker under title 32, chapter 20.

Q. Must an out-of-state short sale negotiator be licensed in Arizona to negotiate a short sale for compensation on behalf of an Arizona seller?

A. Yes, they should generally follow the same licensing regulations as Arizona-based short sale negotiators.

Q. I am taking a listing for a short sale seller, and am offering my real estate services package to include me negotiating with the short sale Lender. I am not charging a higher compensation, because the listing is a short sale, than I would charge for a "non-short sale" listing. Do I need a Loan Originator license??

A. No, the definition of a real estate broker includes a person who "incident to the sale of real estate....negotiates or offers, attempts or agrees, to negotiate a loan secured or to be secured by any mortgage or other encumbrance upon or transfer of real estate...." A.R.S. 32-2101(48)(k).

Q. Two licensees work as a "team" under a single employing real estate broker. The employing real estate broker does not charge an additional fee for a short sale transaction. When the Designated Broker's team are the listing agents of a short sale, licensee "A" handles the listing and sale of the property and licensee "B" handles the short sale negotiations with the lender. At close of escrow, the employing real estate broker receives the commission from the seller and pays licensee "A" and "B" according to their independent contractor's agreement. Is licensee "B" required to obtain a loan originator's license and be employed and paid by a licensed mortgage broker, banker, or consumer lender?

A. Since the only service that licensee "B" is providing is the negotiation of the short sale with the lender, Licensee "B" is receiving compensation by way of a portion of the real estate commission for that service only. Since licensee "B" is performing none of the services relating to the listing and sale of the property, licensee "B" is not performing "only" real estate brokerage activities and is not performing these services "incident to the sale of real estate." Therefore, the exemption in the loan originator statute for a person who only performs real estate brokerage activities does not apply and licensee "B" is required to be licensed as a loan originator and employed and paid by a licensed mortgage broker, mortgage banker or consumer lender. However, if licensee "B" is employed/authorized by the Seller to perform, and does perform listing and sale services and is authorized by the seller to, and does, negotiate the short sale with the lender in addition to the real estate services (for no additional fee), licensee "B" is not required to be licensed as a loan originator to receive a portion of the commission from the employing real estate broker.

Q. This scenario is a Team, with a leader who is perceived by a short sale seller to be the individual the employment agreement is being signed with, and to whom the seller gives authorization to negotiate with the short sale lender. The team has multiple members, each delegated a specific role in the listing and sale of the property, with a team member being assigned to do nothing other than interact and negotiate with the short sale lender. The negotiator team member is paid for

SHORT SALE...NEGOTIATORS AND OTHER QUESTIONS
(continued)

their activities in the loan negotiation. Should this negotiator team member have a Loan Originator License? Are there other risky issues to address? A. Probably yes, a Loan Originator License is required. The issue of "who is authorized by the Seller/ Homeowner to negotiate on their behalf with the short sale lender should also be addressed. Also, who does the Seller perceive is representing them?

Q. If a transaction coordinator is licensed with an employing broker and conducting any acts that are defined as real estate activity, including interacting and negotiating with a short sale lender, can the transaction coordinator offer their services to other brokerages' brokers/agents for compensation.

A. A licensee may work for only one Designated Broker. A licensee may receive compensation only from the employing broker to which they are licensed. Compensation is defined as any fee, commission, salary, money or other valuable consideration for services rendered.

Q. A sales contract, being reviewed/approved by the Designated Broker, shows the buyer is purchasing a short sale listing as "or assignee". Could this indicate any red flags to the Broker?

A. Yes, especially if the buyer is a real estate salesperson/ associate broker, or LLC, which could indicate there is a "property flopping" taking place. Are all disclosures and addendums in file, and reviewed by the Broker? Have all required disclosures been made, and agreed to in writing by all parties to the transaction? Will the short sale lender receive all documents, including addendums? A licensee must protect and promote the client's interests and exercise reasonable care in obtaining information material to a client's interest and every licensed principal in the transaction (particularly in double escrow transactions) must be identified, and all compensation and disbursements must appear in the HUD-1 or other final settlement statements (R4-28I-802(C);R4-28-1101). A licensee cannot accept compensation from or represent more than one party in a transaction without prior written acknowledgment of all parties (R4-28-1101(F)).

Q. Seller's senior creditor agrees to a short sale, contingent on the junior creditor's payoff agreement to seller for less than owed. The junior creditor tells a licensee an agreement is possible only if the buyer pays the remaining balance "outside of escrow". Should licensees participate in this scenario?

A. No, Licensees should not participate in knowing about any payments outside of escrow. Undisclosed payments outside of escrow are not allowed. All financial transactions related to the contract (s) appurtenant to the transfer of an interest in real property must appear on the HUD-1, or other final settlement statement. (ARS 32-2153-(A)(10), (B)(10), AAC R4-28-802(c). Commissioner' SPS No.2808.06). Licensees Broker should be notified immediately.

Q. What should a licensee do, when the HUD-1 is reviewed and indicates a payment of compensation, for the other side, to a real estate licensee, other than the licensee's Employing Broker? Or to an LLC other than that Employing Broker?

A. Bring it to the attention of all parties to the transaction, as well as, escrow and the Designated Brokers involved. File a complaint with ADRE. A real estate licensee may not accept compensation for licensed activity except from the licensee's Employing Broker, and no one may lawfully pay the licensee for such activity except the licensee's Employing Broker (ARS 32-2153(A)(7), 32-2155(B)(C). A licensee cannot receive compensation without the client's prior written acknowledgement of the compensation and the services rendered must be commensurate with industry standards (AAC R4-28-1101(G)(H)).

Q. The licensee is told to have the escrow company release monies to parties other than the seller, lenders, or real estate agents involved with the transaction, without agreement of parties and written instructions.

A. An escrow company may pay only licensed real estate brokers, or by written instructions from the parties to the transaction, including the licensed Designated Broker for that Broker's licensed agents, and the Broker must maintain a complete record of the transaction. (ARS 32-2153(A)(6)(7)(8)(10)(18), 32-2155(A)(B), AAC R4-28-802(C)).

SHORT SALE...NEGOTIATORS AND OTHER QUESTIONS
(continued)

Q. A property is placed in MLS by a listing agent, while a pending sale shows on the same property.

A. Interested parties should ask, who is selling the property? And, who owns the property on the deed?

A licensee may not place a sign offering a property for sale unless the licensee has the written authorization of the property owner (ARS 32-2153(A)(12). A licensee must deal fairly with other parties in the transaction and disclose in writing material information that may affect the consideration to be paid. (AAC R4-28-1101(A)(B).

Q. A Buyer's Agent finds that the Seller signing on their Purchase Agreement is not the recorded owner. What to do?

A. Inquire if the Seller signing on the contract owns the property, and to produce documents substantiating ownership; also, contact the recorded owner to verify the information regarding the prospective Seller's position in property. A licensee may not offer a property for sale without the property owner's authorization (ARS 32-2153(A)(12). A licensee cannot accept compensation from or represent more than one party in a transaction without prior written acknowledgement of all parties. (ACCR4-28-1101(F).

Q. What about an Escrow Company who collects the documents and interacts/negotiates with a Lender for a negotiated payoff of the loan? Does the Escrow agent need a real estate license?

A. Yes, in most instances. A.R.S.32-2121 (A)(16) provides an exemption from the real estate licensure requirements as follows: "An escrow agent in the performance of the escrow agent's duties as an escrow agent, a title insurer in the performance of the title insurer's duties as a title insurer or a title insurance agent in the performance of the title insurance agent's duties as a title insurance agent. Nothing in this paragraph shall be construed to allow an escrow agent, a title insurer or title insurance agent to otherwise engage in acts requiring a license." Negotiating with a short Sale Lender on an Arizona property requires an Arizona real estate license. Thus, the Escrow agent negotiating with a Short Sale Lender must have an Arizona real estate license, and if a Salesperson's license, that license must be held by an Employing Broker.

REMEMBER: A licensed real estate broker may not employ an unlicensed person to negotiate the sale or exchange of a property interest, or to assist in the negotiation of the loan secured by real property. A licensee shall accept employment and compensation as a licensee only from the legally licensed Employing Broker to whom the licensee is licensed. A licensee cannot receive compensation without the client's prior written acknowledgement of the compensation and the services rendered must be commensurate with industry standards.

(ARS6-991.02, 32-2101(47)©,(j)&(k), 32-2153(A)(10), 32-2155(B)(C); R4-28-1101(G)(H)

agents of the Employing Broker, and the Employing Broker is responsible for all acts of its agents. (R4-28-1103(C)&(D).business days of execution (ARS 32-2151.01(G); the review is not contingent on any action by any Lender. The tolling date for the review is solely contingent on when the

REMEMBER: "Compensation" is defined as any fee, commission, salary, money or other valuable consideration for services rendered. ARS 32-2153(A) states a licensee may receive compensation only from the Employing Broker to which they are licensed.

REMEMBER: The Designated Broker must supervise the the agents of the Employing Broker, and the Employing Broker is responsible for all acts of its agents. (R4-28-1103(C)(D).

REMEMBER: The Designated Broker must initial and date the Broker's review of every listing agreement and Purchase Contract (with all Addendums) within 10 business days of execution (ARS 32-2151-01(G); the review is not contingent on any action by any Lender. The tolling date for the review is solely contingent on when the contract was executive by the Buyer and the Seller.

REMEMBER: The Employing Broker must maintain all fully executed contracts for a period of five years, after contract is executed, including the earnest money receipt, escrow instructions, closing statement, and copies of applicable employment agreements (ARS 32-2151.01(A)

REMEMBER: * A licensee must disclose all information material to the consideration to be paid (R4-28-1101(B). *The licensee must be honest, truthful and of good character, and not engage in fraud (ARS 32-2153(B). * A licensee may not pursue a course of misrepresentation in the role of a licensee, or as a principal in a transaction (ARS 32-2153(A). * A licensee should not pursue a course of misrepresentation or distribute misleading information. * A licensee may not violate any federal or state law dealing with real estate fraud. * A licensee must provide services that conform to industry standards recognized in the professional community. *A licensee cannot provide services outside of the licensee's expertise, unless the client receives the client's signed written acknowledgment of the licensee's lack of experience and the client thereafter hires the licensee anyway. *The Seller's agent may have an obligation to submit ALL offers to the Seller, unless otherwise directed in writing. (Remember, in a short sale, the Seller is the homeowner, not the Lender

SHORT SALE...NEGOTIATORS AND OTHER QUESTIONS (continued)

REMEMBER: The Employing Broker must maintain all fully executed contracts for a period of five years, after contract is executed, including the earnest money receipt, escrow instructions, closing statement, and copies of applicable employment agreements (ARS 32-2151.01(A))

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LICENSING ACTIVE-INACTIVE-GRACE PERIOD

Active License – Means a current license issued by the Department to a Broker or Salesperson that states the name of the Broker that employs the Broker or Salesperson, and the location at which the Salesperson or Broker is employed. If referring to an Employing Broker, it means a currently licensed Employing Broker, with a currently licensed Designated Broker of Record.

Inactive License – Means a current license issued by the Department to a Broker or Salesperson that indicates the License is not held by a Designated Broker or Entity. An inactive license must be renewed every 2 years as inactive, including the Continuing Education (CE) requirement. How long may a licensee remain in an inactive status? Licensees may remain in an inactive status indefinitely, as long as they comply with all requirements pursuant to Arizona Revised Statutes, Title 32; including, but not limited to: fulfilling and uploading all continuing education requirements within the specified renewal period, disclosing any convictions/sanctions, etc. if applicable, and renewing/paying for their license renewal. When a license is inactive, the ADRE website www.azre.gov will indicate that the license is inactive, and that it is not held by a Broker. An inactive licensee is not allowed to perform any real estate services, nor receive payment for any real estate service.

Grace Period – Means the one year period after a license expires, during which the Licensee can renew the license. Should the licensee wait more than that year, the licensee must pass the licensing exam, and if the pre licensing education was taken over 10 years prior to application, the 90 hours of in classroom pre licensing instruction is required, as well as all other requirements of licensing.

INACTIVE LICENSE Vs. REFERRAL COMPANY

Many Licensees are under the false impression that when their license is held by a Referral Company, that their license is inactive. This is not true. A Referral Company is an active company, licensed in Arizona with an active licensed Designated Broker/Entity. The license is active and the 24 hours of Continuing Education (CE) every twenty four (24) months is required. Having a license in a Referral Company allows a licensee to be paid for real estate services rendered.

Every Licensee is responsible for their real estate license, and should know the status of the License, and should monitor the expiration date.

Check today at www.azre.gov Online Services.

REAL ESTATE AUCTION ISSUES...A REAL ESTATE BROKER'S LICENSE IS REQUIRED TO AUCTION REAL ESTATE IN ARIZONA

AUCTIONING ARIZONA REAL ESTATE

ARS 32-2101(47)(e) places those entities/ persons who auction real estate under the jurisdiction of the Arizona Department of Real Estate.

Case Study: The National Auction Company (NAC) is a licensed real estate broker in many states, but not in Arizona. Instead of obtaining an Arizona real estate Broker license, NAC signs a co-brokerage Agreement with an Arizona Brokerage Company (AzBC), a Broker holding a license issued by the Arizona Department of Real Estate (ADRE).

Most of NAC's clients/sellers may be national companies/lenders, such as, HUD, Fannie Mae and Wells Fargo. NAC has a Listing/Sales agreement with the national sellers to sell their properties at auction all across the nation, including Arizona.

Q. Must NAC have an Arizona Broker's license?

A. NAC must be a licensed real estate broker. Remember, all individuals working with NAC, in real estate auctioning activities on Arizona property, must hold an Arizona real estate license.

If NAC does not have an Arizona Broker's license, it must have a written cooperation agreement with an Arizona Broker. (per ARS 32-2163)

AzBC may cooperate with NAC in the auction ONLY because NAC holds a real estate broker license in another state.

AzBC must maintain the cooperation agreement it has with NAC in AzBC's files for five (5) years from the termination date of the agreement.

NAC can perform only activity related to the taking of bids, and closing of each bid cycle thru AzBC's employees.

All persons working in real estate auctioning activities on Arizona property must hold an Arizona real estate license and be AzBC's licensees.

Q. Must AzBC be included as a party in the employment agreement between NAC and NAC's clients?

A. AzBC does not need a real estate employment agreement with NAC's clients to represent them in a transaction {per ARS 32-2151.02(D)}.

The cooperation agreement between NAC and AzBC would establish all the material terms, including compensation and duration of the agreement.

NAC cannot assign its listing agreement to AzBC without express written consent of NAC's clients.

Q. What are the responsibilities of AzBC?

A. AzBC must close the auction transaction; Prepare and oversee all other licensed name when referring to a listing; and, prominently display NAC's name in any advertisements

referring to a listing under NAC's listing contract. Maintaining all documents concerning each sale; just recognizing the bids and signaling the end of the bidding process; and/or, compensation is based on, or measured by, the number of sales transacted during the auction.

Q. Must the Ringman have a real estate license?

A. License is required if the Ringman's role involve more than just recognizing the bidder and transmitting the bidders information to the Auctioneer; and/or compensation is based on, or measured by, the number of sales transacted during the auction.

Q. Must the Clerk recording the successful bids have a real estate license?

A. An unlicensed administrative assistance must abide by Arizona Department of Real Estate SPS No 2005.04, found at www.azre.gov. The Clerk may assist at the auction (under supervision of the AzBC broker); for example they can: unlock doors for a licensee and prepare the facility for the public; deliver and receive documents-Only as a delivery service; an unlicensed person cannot be responsible for explaining or overseeing the execution of transactions and contracts.

THESE REGULATIONS PERTAIN TO INTERNET OFFERING AS WELL.

ADRE TUCSON OFFICE CLOSED!

The ADRE Tucson office officially closed its doors on May 31, 2011. Despite our valiant efforts to keep the office open, the evitable happened.

We encourage Southern Arizona Licensees to scan or email their documents. The "Scan It" document will applicable email addresses is posted on the ADRE website: www.azre.gov

WEB-BASED SOCIAL NETWORKING AND REAL ESTATE ADVERTISING

Licensees are reminded that when using social networking, micro-blogging services or any other web-based application in the promotion of their real estate services, the Department's advertising rules apply. In particular, a licensee "shall not advertise property in a manner that implies that no salesperson or broker is taking part in the offer for sale, lease, or exchange". The name of the licensee's employing broker must be displayed in a clear and prominent manner. In addition, a licensee shall not misrepresent the facts or create a misleading impression by not identifying themselves as an Arizona Real Estate Licensee, including the brokerage they are affiliated with. (R4-28-502)

The employing broker's name being displayed in a clear and prominent manner requires that in looking at the advertisement, the viewer can, at first glance, clearly identify the name of the employing broker. If the viewer has to scroll through the advertisement in order to locate the name of the employing broker, the requirement of "clear and prominent" has not been met.

In reviewing the use of social networks by licensees to promote their real estate services, it has been concluded that, provided a licensee displays the name of their employing broker on their profile, using Twitter or Facebook as examples, it is not required that each "tweet" or "post" also contain the name of the brokerage. The rationale is that once a licensee's profile has been accessed, the name of the employing broker displayed, and it is known that the individual is a licensee, it is the reader, with that knowledge, who then chooses whether to follow the licensee's "tweets" or asks to become a "friend" going forward.

This is rather like a licensee introducing themselves to a consumer at an open house; they identify themselves as a real estate licensee and present a business card with the name of their brokerage displayed. The licensee does not have to reintroduce themselves at each subsequent meeting if the consumer decides to maintain contact with the licensee, as the consumer already knows, via the first introduction, with whom they are dealing.

The same rationale applies to a video blog posted on a licensee's website. Provided that the name of the licensee's employing broker is clearly and prominently displayed where the video is posted, it is not required that the licensee announce the name of their brokerage on each blog segment. However, if a licensee posts a video blog on any other website, such as YouTube, the name of the brokerage must be announced.

One of the primary purposes of the Department's advertising rules is to ensure that consumers accessing a licensee's advertising, anywhere in the world, are aware that they are dealing with a real estate licensee, and know the name of the licensee's Employing Broker. Remember, all Arizona Real Estate License laws, rules, policies apply to all advertising, including Internet Social Media. Know, and adhere to these guidelines.

HOW TO REINSTATE YOUR CEMETERY, CAMPGROUND OR REAL ESTATE LICENSE IF YOU "VOLUNTARILY CANCELLED" YOUR LICENSE

LICENSE TIMEFRAME FROM VOLUNTARY CANCELLATION DATE

ACTION /FORM REQUIRED

Within the expiration date <ul style="list-style-type: none"> i.e. License expiration date is a future date from today's date. 	Submit a License Reinstatement Form (LI-207)
Within the grace period <ul style="list-style-type: none"> i.e. License expired and is within one year grace period of the expiration date. 	Submit a Renewal Application (LI-243)
Past the grace period <ul style="list-style-type: none"> i.e. License is past the one year grace period. 	Submit an Original License Application-including Fingerprint Clearance Card



ARIZONA-MEXICO COMMISSION- REAL ESTATE COMMITTEE

On June 3rd, the Arizona-Mexico Commission held its Plenary Session at the Wigwam Resort in Litchfield, Arizona. Under the Co-Chairmanship of Gary Brasher and Commissioner Lowe, the Real Estate Committee met at 9:00 a.m. and held a very informative meeting. Attendance was good with diverse representation from industry and the public, which included representatives from both the private and public sectors from the State of Sonora and Arizona. Action Items developed at the meeting were:

1. Promote a system which will expedite the response time in obtaining a deed through the Sonora government agency. Responsible party: Sonora
2. Promote a bi-national conference for the purpose of education for the professionals in the real estate industry while obtaining feedback so as to develop a plan to promote action item #1. Responsible: Arizona Real Estate Committee

Targeted completion date for the Action Items completion is December 2011. Visit the [Arizona-Mexico Commission](#) to learn more about the upcoming Plenary in Sonora, Mexico.

A fond farewell and a very special "Thank You" to Frank Busch and Juan Moreno for dedication and services to the Real Estate Committee. We wish them well !

If you are interested in serving on the Arizona-Mexico Commission Real Estate Committee, please send your letter of interest and resume to Mary Utley at mutley@azre.gov . To serve on the committee, you must also be a member of the Arizona-Mexico Commission.

The **"BUYING REAL ESTATE IIN MEXCIO, A CONSUMER GUIDE"** has been revised and is available for purchase through ADRE. The cost is:

- 1-20 copies = \$1.00 each
- 20+ copies = \$.75 each

STAFF SPOTLIGHT

WITH A LITTLE HELP...



BOB CATES is a Licensing Division customer Service Rep. He joined ADRE in 1979 (32 years ago). For many years he has been the friendly and knowledgeable voice of the Department for the concerned public, or the "frantic" licensee needing an answer "right now".

With the focus of the Department to convert some of the 5,000+ phone calls a month to email communication, Bob voiced his desire to expand his ability with email communication. We at the Department analyzed the situation, knowing that there was a huge asset in Bob's real estate knowledge base, yet there were physical restraints that made email use a challenge.

Explaining Bob's desires to the Arizona Department of Economic Security (DES), Betty Schoen and Susan Lehew, they evaluated the situation and suggested a solution and a plan. Based on the cursory review, a Voice Recognition Email Responder was suggested. Bob will be able to speak into a mic, which will transcribe his spoken words into an email message.

Realizing the goal, of having Bob responding to emails by July 1, 2011 (the beginning of the ADRE Fiscal Year), the Action Steps were developed and immediately executed.

The equipment/software has arrived, Bob's training is being scheduled, and we are excited to advise everyone, that...not only will your phone call questions to ADRE be answered with Bob's expertise, but now, your email questions, as well!!!! Contact Bob at licensing@azre.gov

ABBREVIATIONS USED IN DISCIPLINARY ACTIONS

CP= Civil Penalty	J&S= Joint & Severally
CE= Continuing Ed	PM= Practice Monitor
PL= Provisional License	BA= Broker Acknowledgement

RESPONDENT	OFFENSE	ORDER TERMS
Kristin Adkins AM REALTY, LLC Tucson, AZ	Conducted real estate activity while license was in an Inactive Status.	\$4,000 CP (J&S), 6 hr CE in Commissioner's Standards
Linda Alexander-Gerber CENTURY 21-ACTION GROUP Yuma, AZ	Engaged in unlicensed activity for 2 months	\$600 CP
Miguel Alvarez EQUITY REALTY GROUP, LLC Tolleson, AZ	Failed to complete required CE. Summary Suspension issued in September 2009.	\$300 CP, vacate Summary Suspension, eligible for reinstatement.
AM Realty LLC	Conducted real estate activity while license was in an Inactive Status.	\$4,000 CP (J&S)
Carl Anderson	Failed to complete CE in a timely manner.	\$500 CP
Edward Anderson	Failed to complete CE in a Timely manner.	\$300 CP, complete CE in 30 days
Todd Anselmo WEST USA REALTY Phoenix, AZ	Failed to cooperate with ADRE investigation; failed to timely notify ADRE of misdemeanor conviction.	Revocation of License
Justin Ausloos HOMESMART Phoenix, AZ	Failed to provide documents and Fingerprint Clearance Card.	Provide Fingerprint Clearance Card within 90 days, provide requested documents within 30 days.
A-Z Worldwide Realty	Failed to have and maintain a definite place of business; failed to prominently display license certificates as required.	\$1,000 CP (J&S)
Deborah Bachelor Buckeye, AZ	Failed to have and maintain a definite place of business; failed to prominently display license certificates as required.	\$1,000 CP (J&S)
Ashalatha Badiredd CUFF REAL ESTATE, LLC Mesa, AZ	Divided and conveyed land parcels in Navajo county without complying with applicable subdivision statutes and rules.	Cease and Desist, \$2,000 CP, 2 yr PL/PM, 9 hr CE Commissioner Standards.
Christopher Bale KELLER WILLIAMS REALTY-LIFESYLE REALTY Phoenix, AZ	Misrepresentation to a client.	\$3,000 Cp, 2 yr PL/BA, 6 hr CE in Commissioner Standards.
Best Props LLC	Divided and conveyed land parcels in Navajo County without complying with applicable subdivision statutes and rules.	Cease and Desist, \$4,000 CP (J&S)
Robert T. Bornholdt NEW HOME BROKERS, Scottsdale, AZ	February 2010 action by the Arizona Corporation Commission.	\$2,500 CP, 2 yr PL, 6 hr CE in Commissioner Standards.
George S. Brennan HOMESMART, Mesa, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.

DISCIPLINARY ACTIONS

RESPONDENT	OFFENSE	ORDER TERMS
Brothers Marketing LLC	Unlicensed real estate activity	Cease & Desist
Shawn Thomas Brown Scottsdale, AZ	September 2010 conviction for Theft, class 5 felony. Failed to disclose conviction in a timely manner.	Summary Suspension of license.
Dino R. Bulleri Self-Employed Broker Prescott, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Gene B. Burns THE MELCHER AGENCY Phoenix, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Steven Michael John Byers THE ARGUS REAL ESTATE COMPANY Phoenix, AZ	Failed to timely disclose a December 2008 misdemeanor conviction.	\$600 CP
Andrea J. Carlson T & L PROPERTY MANAGEMENT & SALES, LLC., Scottsdale, AZ	Engaged in unlicensed activity for 11 months. Denial of license renewal.	License renewal granted, \$5,000 CP, 2 yr PL/BA, 6 hr CE in Commissioner Standards.
Stephen Case Tucson, AZ	Failed to timely disclose a March 2010 misdemeanor conviction.	\$600 CP
Christopher Castillo CPA ADVANTAGE REALTY, LLC Scottsdale, AZ	Misleading or inaccurate advertising.	\$500 CP
Leticia A. Cheatham Laveen, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Philip D. Chiaravalle Chandler, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Keith Christoffel Sunrise, AZ	Failed to complete CE in a timely manner. Failed to respond to ADRE Notice of Hearing.	Revocation of License.
Spencer Collett USA REALTY, LLC Prescott Valley, AZ	Timely notified Department of September 2010 misdemeanor conviction; failed to obtain Fingerprint Clearance Card as requested.	Obtain Fingerprint Clearance Card within 90 days.
Patricia L. Culley Glendale, AZ	Failed to complete CE in a timely manner. Failed to respond to Department Notice of Hearing.	Revocation of License
John B. Daley ROCK POINT REALTY, LLC, Mesa, AZ	Failed to timely disclose a December 2007 misdemeanor conviction.	\$600 CP

DISCIPLINARY ACTIONS

RESPONDENT	OFFENSE	ORDER TERMS
Amber Davidoff CALL REALTY, INC. Gilbert, AZ	Failed to timely disclose a December 2009 misdemeanor conviction. Failed to provide requested documents.	\$300 CP, provide Fingerprint Clearance Card within 90 days, provide requested documents within 30 days.
Debbie D. Dean MIMOSA GROUP REALTY Chandler, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Beverly Dyer ARIZONA HOME REALTY, LLC Mesa, AZ	Failed to timely disclose within 10 days, February 2009 misdemeanor conviction.	\$300 CP
Eric R. Ely HOMESMART Glendale, AZ	Failed to timely disclose a September 2009 misdemeanor conviction.	\$300 CP
Manuel Espinoza Jr. CAMELBACK EXECUTIVE REALTORS Phoenix, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Richard M. Fawley Jr. Scottsdale, AZ	Failed to complete CE in a timely manner. Failed to respond to Department Notice of Hearing.	Revocation of License.
Adam Finkel TRAVERS REALTY CORPORATION OF AMERICA Scottsdale, AZ	Failed to timely disclose a February 2011 misdemeanor conviction.	\$300 CP
John C. Forsyth REALTY EXECUTIVES Scottsdale, AZ	Failed to timely disclose an October 2010 misdemeanor conviction. Failed to provide documents and Fingerprint Clearance card.	\$1,000 CP, provide Fingerprint Clearance Card within 90 days, provide requested documents within 30 days, 2 yr PL/BA, 6 hr CE in Commissioner Standards.
Nancy C. Fournier EAGLE REFERRALS Scottsdale, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Judith L. Freeman COWELL & ASSOCIATES Litchfield Park, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Jackie Gard INVESTMENT ARIZONA REALTY Phoenix, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Jason Helfrich SANTA MARIA REALTY Tucson, AZ	Received commissions through an unlicensed property management company.	\$2,000 CP, 6 hr CE in Commissioner Standards, 2 yr PL/BA

DISCIPLINARY ACTIONS

RESPONDENT	OFFENSE	ORDER TERMS
Horizon Homes & Construction	Divided and conveyed land parcels in Maricopa County without complying with applicable subdivision statutes and rules.	\$2,000 CP
Brian Huffman LAND RESEARCH & DEVELOPMENT INC. Scottsdale, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Glen Irizarry Chandler, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Phillip L. Jackson GATEWAY RESIDENTIAL & LAND SALE'S SPECIALISTS Parker, AZ	Submitted CE credits that were taken by another individual.	90 day License Suspension, 2 yr PL/PM, \$2,000 CP, complete required 24 hr CE plus additional 6 hr CE in Commissioner Standards.
Elisabeth Johnson Garner Properties & Management, LLC Avondale, AZ	Failed to have and maintain a definite place of business; failed to prominently display license certificates as required.	\$1,000 C (J&S), 6 hr CE in Commissioner Standards.
Marcus Christopher Johnson LUXURY6LLC Phoenix, AZ	Failed to complete CE in a timely manner. Failed to respond to Department Notice of Hearing.	Revocation of License
Kelly M. Kienle BROTHERS RESIDENTIAL REALTY,LLC Phoenix,AZ	Failed to complete CE in timely manner.	\$300 Cp, complete CE in 30 days
Kelly Kloos ABBA REAL ESTATE Gilbert, AZ	Failed to complete CE in a timely manner.	Revocation of License, \$1,000 Cp
Barry F. Kramer KELLER WILLIAMS REALTY SONORAN LIVING Phoenix, AZ	Failed to properly supervise, resulting in unlicensed activity by employee.	\$300 CP
Charles Krieger Phoenix, AZ	Failed to properly supervise, resulting in unlicensed activity by employee.	\$300 Cp
Robert C. Lewis P.R.O. REALTY Bullhead City, AZ	Assisted unlicensed entity with dividing and conveying land parcels in Mohave County without complying with applicable subdivision statutes and rules.	\$2,000 CP, 6 hr CE in Commissioner Standards.

RESPONDENT	OFFENSE	ORDER TERMS
Shane J. Lewis SELLSTATE INFINITY REALTY Tempe, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Arlene Little RUSS LYON SOTHEBY'S INTERNATIONAL REALTY Scottsdale, AZ	Misleading advertisement, did not disclose "owner/agent" in the advertisement.	\$300 CP
Leslie P. Lovett BROTHERS MARKETING LLC Phoenix, AZ	Multiple violations including accepting compensation in violation, commingling of client funds, violation of Commissioner's Order, conducting real estate activities through an unlicensed entity.	Cease & Desist
Anzor C. Mahatadse PRUDENTIAL AMERICAN ASSOCIATES REAL ESTATE Scottsdale, AZ	Failed to timely disclose within 10 days, September 2010 misdemeanor conviction.	\$300 CP
Donald W. Marshall BUD CRAWLEY REAL ESTATE Phoenix, AZ	Failed to timely disclose a November 2010 misdemeanor conviction.	\$300 CP
Laurie K. Mayton SANTA FE REALTY, INC. Flagstaff, AZ	Failed to timely disclose a January 2011 adverse judgment.	\$300 CP
Judy McCrory CENTURY 21-ACTION GROUP Yuma, AZ	Failed to properly supervise, resulting in unlicensed activity by employee.	\$300 CP
Laura J. McGrath LIBERTY PROPERTIES & ASSOCIATES Flagstaff, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Stephanie McNeely DOMINON REAL ESTATE PARTNERS, LLC Carefree, Az	Misleading advertisement, did not disclose "owner/agent" in the advertisement.	\$300 CP
Leonard L. Melcher Mesa, AZ	Failed to provide Fingerprint Clearance Card.	Provide Fingerprint Clearance Card within 90 days.
David Scott Miller DAVID SCOTT MILLER Phoenix, AZ	Failed to complete CE in a Timely manner.	\$300 CP, complete CE in 30 days
Kinal H. Movalia Peoria, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Gregory A. Newton Phoenix, AZ	Disclosed sanctions by National Association of Securities Dealers and AZ Corp Commission regarding securities violations. License application denied.	License granted, 2 yr PL/BA, Surety Bond

RESPONDENT	OFFENSE	ORDER TERMS
Laura E. Nieblas CONNECT REALTY.COM Rio Rico, AZ	Engaged in unlicensed activity, misrepresentation.	\$2,000 CP, 2 yr PL/PM, 6 hr CE in Commissioner Standards
Robin R. Nitchoff Mesa, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
John t. Odle T&L PROPERTY MANAGEMENT & SALES, LLC Scottsdale, AZ	Failed to properly supervise, resulting in unlicensed activity by employee.	\$3,000 CP, 9 hr CE in Commissioner Standards
Lars G. & Sally Ann Olsen Maricopa County	Divided and conveyed land parcels in Maricopa County without complying with applicable subdivision statutes and rules.	\$5,000 CP
Washington Padilla HOMESMART Phoenix, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Dean M. Pagel KELLER WILLIAMS ARIZONA REALTY Scottsdale, AZ	Failed to timely disclose an April 2010 misdemeanor conviction.	\$500 CP
D. Michelle Parkhurst-Session Phoenix, AZ	Disclosed adverse judgment for fraud and breach of contract. License renewal denied.	License denied, \$1,500 CP
Kenneth & Donna Patch Maricopa County	Divided and conveyed land parcels in Maricopa County without complying with applicable subdivision statutes and rules.	\$500 CP, obtain Public Report
Cynthia S. Pelz Inactive	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Michael J. Peters SUNBELT REALTY & BUSINESS ADVISORS, LLC Phoenix, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Terry Petrillo Navajo County	Divided and conveyed land parcels in Navajo County without comply with applicable subdivision statutes and rules.	Cease and Desist, \$3,000 CP

RESPONDENT	OFFENSE	ORDER TERMS
Kirk Piersma	Failed to remit monies and documents; commingled clients monies; failed to produce documents and records for inspection; failed to maintain complete records.	30 day License Suspension, 2 yr PL, \$6,000 CP, provide Terminated Client Final Accounting, make Trust Accounts Whole within 90 days, develop written procedures, 9 hr CE in Commissioner standards
Keri Lynn Poole PLATINUM USA REAL ESTATE, LLC Lake Havasu City, AZ	Failed to disclose an October 1997 misdemeanor theft conviction when applying for licensure. Failed to timely disclose a September 2010 misdemeanor conviction.	\$2,000 CP, 60 License Suspension (stayed), 2 yr PL, 6 hr CE in Commissioner Standards, obtain Fingerprint Clearance Card.
Robert B. Powers ROOSEVELT PARTNERS Phoenix, AZ	Failed to timely disclose a November 2010 undesignated conviction. Failed to provide requested documents.	\$300 CP, provide Fingerprint Clearance Card within 90 days.
Kay Lynn Price KAY PRICE REALTY, INC. Prescott Valley, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Judy W. Puntenney PRUDENTIAL NORTHERN ARIZONA REAL ESTATE Prescott, AZ	Failed to timely disclose a December 2009 misdemeanor conviction.	\$600 CP
Phillip B. Quartullo PHILLIP B. QUARTULLO Cave Creek, AZ	Multiple violations, no response to Department requests for information and documentation.	Summary Suspension
Douglas P. Reed DPR COMMERCIAL Glendale, AZ	Engaged in unlicensed activity for 3 months.	\$600 CP
Peggy Ann Riley Sedona, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
RNSA Lands LLC Navajo County	Divided and conveyed land parcels in Navajo County without complying with applicable subdivision statutes and rules.	Cease and Desist, \$4,000 CP J&S
Vincent Rooney TIERRA ANTIGUA REALTY, LLC Tucson, AZ	Failed to timely disclose a February 2011 misdemeanor conviction	\$300 CP
Staci Rostan GENEVA REAL ESTATE & INVESTMENT, LLC Mesa, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Kevin W. Rubinstein ELITE REALTY Mesa, AZ	Failed to timely disclose a December 2009 misdemeanor conviction. Failed to provide requested documents.	\$3000 CP, provide Fingerprint Clearance Card within 90 days provide requested documents within 30 days.
Sales & New Developments LLC Mohave County	Divided and conveyed land parcels in Mohave County without complying with applicable subdivision statutes and rules.	Cease & Desist, \$2,000 CP, Public Report

DISCIPLINARY ACTIONS

RESPONDENT	OFFENSE	ORDER TERMS
Elvis A. Saloum Glendale, AZ	Failed to timely disclose a December 2006 misdemeanor conviction. Failed to provide requested documents.	\$300 CP, provide Fingerprint Clearance Card within 90 days, provide requested documents within 30 days.
Patricia A. Sarcoz WHITE MOUNTAIN REALTY, LLC Showlow, AZ	Failed to timely disclose a November 2010 misdemeanor conviction. Failed to provide requested documents.	\$300 Cp, provide Fingerprint Clearance Card within 30 days.
Bruce Sayre Scottsdale, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Robert Schneiter Gilbert, AZ	Failed to complete CE in a timely manner. Failed to respond to Department Notice of Hearing.	Revocation of License
Tom M. Schotts HOME TEAM INTERNATIONAL REAL ESTATE Bullhead, AZ	Failed to complete CE in a Timely manner.	\$300 CP, complete CE in 30 days
John Shattuck JOHN G. SHATTUCK REALTY Tucson, AZ	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Angie Silasi PRESTIGE REALTY, INC. Phoenix, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Betty J. Smith HOMESMART Phoenix, AZ	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Catherine R. Smith ARIZONA SUNRISE PROPERTIES Hualapai, AZ	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days
Jame Sorensen COLDWELL BANKER RESIDENTIAL BROKERAGE Scottsdale, AZ	Failed to amend Public Report. Failed to disclose judgment.	\$1,000 CP (J&S), 6 hr CE in Commissioner Standards
Bill Spain Scottsdale, AZ	Failed to complete CE in a timely manner. Failed to respond to Department Notice of Hearing.	Revocation of License
Ann Stoddard GENESIS REAL ESTATE & DEVELOPMENT, INC Pinetop, AZ	Engaged in property management activities without knowledge and permission of employing brokers.	30 day License Suspension, \$4,000 CP, 6 hr CE in Commissioner Standards, 2 yr PL/PM
Vanuatu Sanjit Tayi Navajo County	Divided and conveyed land parcels in Navajo County without complying with applicable subdivision statutes and rules.	Cease and Desist, \$4,000 CP J& S

DISCIPLINARY ACTIONS

RESPONDENT	OFFENSE	ORDER TERMS
Troy A. Tisdale GTM REALTY GROUP Prescott Valley, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Trigram Homes	Failed to amend Public Report	\$1,000 CP (J&S)
Glyndon Catherine Tucker Phoenix, AZ	Created and/or caused marketing materials for subdivisions without first obtaining a Public Report.	\$2,000 CP, 6 hr CE in Commissioner Standards
Sonya Vause Tempe, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days
Jason A. Veliz Tucson,AZ	Failed to disclose a May 2006 misdemeanor conviction when applying for licensure.	\$600 CP
George M. Vietze PROPERTY INVESTMENT & DEVELOPMENT Chandler,AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Barbara A. Vincent BARBARA VINCENT OF SEDONA Sedona, AZ	Failed to complete CE in a timely manner.	\$300 Cp, complete CE in 30 days.
Sara L. Wehrkamp EXP REALTY, LLC Phoenix, AZ	Failed to provide documents and Fingerprint Clearance Card.	\$500 CP, provide Fingerprint Clearance Card within 90 days, provide requested documents within 30 days.
Jeanne B. Welnick KELLER WILLIAMS REALTY SONORAN LIVING Scottsdale, Az	Engaged in unlicensed activity for 9 months.	\$1,000 CP
Kevin Whitenack Phoenix, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Jeffrey S. Whitlock PRO-FORMANCE REALTY CONCEPTS, LLC Glendale, AZ	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Stanley Robert Wirick Phoenix, AZ	Failed to provide documents and Fingerprint Clearance Card.	Provide Fingerprint Clearance Card within 90 days, provide requested documents within 30 days.
Lawrence T. Wright Tucson, AZ	Failed to provide documents and Fingerprint Clearance Card.	Provide Fingerprint Clearance Card within 90 days, provide requested documents within 30 days.

RESPONDENT	OFFENSE	ORDER TERMS
Eric R. Zecharia	Failed to complete CE in a timely manner.	\$300 CP, complete CE in 30 days.
Steven Zook	Failed to complete CE in a timely manner	\$300 CP, complete CE in 30 days

SURRENDER – ARS §32-2157(A)

If the Department has commenced a disciplinary proceeding **against** a licensee, the licensee may request in writing to voluntarily surrender their license to the Department only, if the surrender of the license occurs not less than 10 days prior to a hearing. After acceptance of the voluntary surrender, **“the Department shall not thereafter issue a license under this chapter to the licensee.”**

Choosing to surrender your license would forego a licensee’s ability to ever apply for a license through the Arizona Department of Real Estate in the future.

LICENSE SURRENDERS FROM FEBRUARY 1, 2011 THROUGH MAY 6, 2011

LAST NAME	FIRST NAME	LIC NUMBER	E&C FILE	SURRENDER DATE
BLACKWOOD	Robert	SA580146000	11F-DI-362	2/4/2011
CAREY	Victor G.	BR003578000	11F-DI-415	3/28/2011
CARRIE	Henry	BR009207000	11F-DI-299	4/5/2011
CARSON	Frederick B.	BR006251000	11F-DI-493	5/5/2011
COMPTON	Jeanette P.	SA559087000	11F-DI-495	5/2/2011
DE MAREES VAN SWINDEREN	WICHER M.	BR010057000	11F-DI-417	3/1/2011
DOYLE	Helen Heun	BR003416000	11F-DI-365	2/14/2011
HETHERINGTON	Beverly	BR011258000	11F-DI-767	3/11/2011
INMAN	Thomas	BR012521000	11F-DI-457	3/17/2011
JONES	Robert R.	BR011656000	11F-DI-458	4/5/2011
KINGSBURY	Michael A.	SA581625000	11F-DI_460	3/29/2011
KOLT	Victoria Anne	SA536627000	11F-DI-314	2/10/211
KONDZIOLKA JR	Theodore	BR506479000	11F-DI-315	2/2/2011
MARTIN	Barbara Jean	BR005631000	11F-DI-430	3/1/2011
MOORS	Victoria R.	SA556086000	11F-DI-376	2/17/2011
NANCARROW	Barbara J.	BR014192000	11F-DI-378	2/1/2011

LICENSE SURRENDERS FROM FEBRUARY 1, 2011 THROUGH MAY 6, 2011

RAYMAN	Susan L.	SA559026000	11F-DI-504	4/29/2011
RIDER	Alice Beatrice	BR004179000	10F-DI-562	3/15/2011
SAULNIER	Roger	BR006034000	11F-DI-467	3/31/2011
STALSONBURG	Christine M.	BR529779000	11F-DI-471	3/29/2011
STORK	Robert C.	SA524945000	11F-DI-507	4/22/2011
TOZER	Leonard K.	BR008601000	11F-DI-425	2/28/2011
WIFFEN	Clayton	SA513755000	11F-DI-428	3/11/2011

CANCEL - ARS §32-2137

An active licensee may request to cancel their license, and the Department has the discretion to do so if both of the following are true:

- The licensee is not presently under investigation by the Department, and
- The Department has not commenced any disciplinary proceeding against the licensee.

The form for canceling a license can be found at www.azre.gov. Submit form to the ADRE after the Designated Broker and Licensee have signed. The Designated Broker must not sever the Licensee prior to ADRE receiving the signed confirmation of the Commissioner.

BUSINESS NAME

Arizona Department of Real Estate
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Phoenix, Arizona 85018
Phone: 602.771-7799

www.azre.gov

DIALOG

The Periodic bulletin from the
Arizona Department of Real Estate

An official publication of the State of Arizona

JANICE K. BREWER
Governor

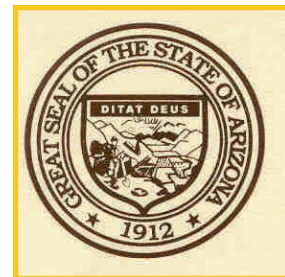
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